



**M** *Mandatory*

**O** *Outpatient*

**T** *Treatment*

*Tennessee Department of  
Mental Health & Developmental  
Disabilities*

# Index

I. Mandatory Outpatient Treatment .....	1
A. Introduction.....	1
B. Types .....	2
II. Administrative Responsibilities .....	2
A. Inpatient Facility Responsibilities .....	2
B. Outpatient Provider Responsibilities .....	3
T.C.A. Section 33-6-602 MOT Guidelines .....	5
III. Criteria for Civil MOT.....	6
A. Inpatient Facility Responsibilities .....	6
B. Outpatient Provider Responsibilities .....	6
IV. Developing the Civil MOT Plan.....	7
A. Inpatient Facility Responsibilities .....	7
B. Outpatient Provider Responsibilities .....	8
V. Finalizing the Civil MOT Plan .....	9
A. Inpatient Facility Responsibilities .....	9
B. Outpatient Provider Responsibilities .....	9
VI. Discharging the Service Recipient on the Civil MOT Plan .....	11
A. Inpatient Facility Responsibilities .....	11
B. Outpatient Provider Responsibilities .....	12
VII. Maintaining the Civil MOT Plan in the Community .....	13
A. Outpatient Provider Responsibilities .....	13
1. Renewals (T.C.A. Section 33-6-621) .....	13
2. Expired/Lapsed MOTs (T.C.A. Section 33-6-623).....	14
3. Termination (T.C.A. Section 33-6-620) .....	14
4. Transfers of MOTs between Outpatient Providers.....	14
5. Changing the MOT Plan.....	15
6. Payment .....	15

VIII.	Non-Compliance with the Civil MOT Plan.....	16
A.	Outpatient Provider Responsibilities .....	16
1.	Affidavits .....	16
IX.	Court Proceedings.....	17
A.	Court Proceedings in the Community.....	17
1.	Service Recipient Appears in Court .....	17
2.	Service Recipient Does Not Appear in Court and Affidavit Filed by QMHP.....	18
3.	Service Recipient Does Not Appear in Court and Affidavit Filed By Someone Other Than the QMHP.....	18
B.	Court Proceedings in the Hospital .....	19
X.	Readmission of a Service Recipient on Civil MOT .....	21
A.	Admission NOT Due to Non-Compliance with MOT .....	21
1.	Inpatient Facility Responsibilities .....	21
2.	Discharge Considerations .....	21
3.	Outpatient Provider Responsibilities .....	22
B.	Readmission Following Non-Compliance Hearing .....	23
1.	Inpatient Facility Responsibilities .....	23
2.	Discharge Considerations .....	24
3.	Outpatient Provider Responsibilities .....	25
C.	Readmission Following Affidavit of Non-Compliance .....	25
1.	Inpatient Facility Responsibilities .....	25
2.	Discharge Considerations .....	25
a.	If the Court Does Not Re-Commit the Service Recipient .....	25
b.	If the Court Does Re-Commit the Service Recipient .....	26
T.C.A.	Section 33-7-303(b) MOT Guidelines.....	27
XI.	Criteria for 303(b) MOT.....	28
XII.	Developing the 303(b) MOT Plan.....	29
A.	Inpatient Facility Responsibilities .....	29
B.	Outpatient Provider Responsibilities .....	30
XIII.	Finalizing the 303(b) MOT Plan.....	31
A.	Inpatient Facility Responsibilities .....	31
B.	Outpatient Provider Responsibilities .....	31

XIV.	Discharging the Service Recipient on the 303(b) MOT Plan.....	32
	A. Inpatient Facility Responsibilities .....	32
	B. Outpatient Provider Responsibilities .....	32
	C. Termination .....	33
XV.	Maintaining the 303(b) MOT Plan in the Community .....	34
	A. Outpatient Provider Responsibilities .....	34
	1. Reviews.....	34
	2. Expired/ Lapsed MOTs.....	34
	3. Termination.....	34
	4. Transfers of MOTs Between Outpatient Providers .....	35
	5. Changing the 303(b) MOT Plan .....	35
	6. Payment .....	35
XVI.	Non-Compliance with the 303(b) MOT Plan .....	36
	A. Outpatient Provider Responsibilities .....	36
XVII.	Court Proceedings .....	36
XVIII.	Admission of a Service Recipient on 303(b) .....	37
	A. Admission Unrelated to 303(b) MOT.....	37
	1. Inpatient Facility Responsibilities .....	37
	B. Discharge Considerations .....	37
	1. If Committed Under Title 33, Chapter 6, Part 4.....	37
	2. If Committed Under Title 33, Chapter 6, Part 5.....	37
	C. Outpatient Provider Responsibilities .....	38
	Flowcharts.....	Appendix A
	Tenn. Code Ann. Title 33, Chapter 6, Part 6 (Civil MOT) .....	Appendix B
	Substantial Likelihood of Serious Harm .....	Appendix C
	Tenn. Code Ann. Title 33, Chapter 7, Part 3 (303(b) MOT).....	Appendix D
	Legal Forms .....	Appendix E



# **I. MANDATORY OUTPATIENT TREATMENT (MOT)**

## **A. Introduction**

Prior to the 1960's involuntary treatment of the mentally ill was provided almost exclusively in long term inpatient facilities operated by state and local governments. The combination of stricter commitment laws incorporating the concept of treatment in the least restrictive environment, and the establishment of community mental health centers, led to a dramatic decline in the population of the public mental health system. Over the past 30 years the inpatient census has been reduced by more than 75%. As patients who could not be treated effectively under existing conditions have grown in number and become increasingly visible the need for involuntary outpatient treatment has been increasingly asserted.

The State of Tennessee first enacted mandatory outpatient treatment (MOT) legislation in 1982. In 1987 the American Psychiatric Association endorsed the use of MOT under certain conditions. Currently 41 states have commitment statutes permitting MOT in some form. MOT generally refers to a court directing a person suffering from severe mental illness to comply with a specified, individualized, treatment plan that has been designed to prevent relapse and deterioration.

The purpose of mandatory outpatient treatment (MOT) is to provide a less restrictive alternative to inpatient care for those service recipients with a mental illness who require continued treatment to prevent a deterioration in their mental condition and who will respond to a legal obligation to participate in outpatient treatment. Mandatory outpatient treatment is not an initial substitute for hospitalization and always follows hospitalization. Initiation of MOT should always be carefully and rigorously done since it involves a loss of liberty for the service recipient.

Mandatory outpatient treatment plans are designed for individuals who require continued treatment to maintain psychiatric stabilization and appropriate behavior, who will not do so voluntarily, but will respond to an authority imposing this upon them, and who prefer the MOT obligation over continued hospitalization. Under MOT, a service recipient may be eligible for discharge subject to the obligation to participate in any medically appropriate outpatient treatment, including but not limited to psychotherapy, medication, or day treatment (T.C.A. Section 33-6-602(2)).

The state laws governing the use of mandatory outpatient treatment can be found in Title 33, Chapter 6, Part 6 ("Civil MOT") and Title 33, Chapter 7, Part 3 ("303(b) MOT"), Tennessee Code Annotated.

## **B. Types**

There are 2 types of MOT:

(1) **T.C.A. Section 33-6-602 (Civil):**

Applies to service recipients who are judicially committed to involuntary care under Title 33, Chapter 6, Part 5, Tenn. Code Ann. who meet the criteria for MOT; this includes persons under "forensic" commitment T.C.A. Section 33-7-301(b) or T.C.A. Section 33-7-303(c).

(2) **T.C.A. Section 33-7-303(b):**

Applies only to service recipients admitted under T.C.A. Section 33-7-303(a) (60-90 day evaluation and treatment after adjudication of not guilty by reason of insanity) who have been found to not meet commitment standards under Title 33, Chapter 6, Part 5, Tenn. Code Ann., and who meet the criteria for MOT.

Persons who are non-compliant with Civil MOT without good cause can be re-hospitalized. Persons non-compliant with 303(b) MOT can be held in contempt because he or she has failed to comply with the obligations necessary for him or her to be discharged from inpatient status. They can be held in jail for a maximum of ten days and in order to be hospitalized would need to be evaluated to see if they currently meet commitment criteria.

## **II. ADMINISTRATIVE RESPONSIBILITIES**

The mandatory outpatient treatment (MOT) process is a combined effort of the inpatient treating facility and the outpatient provider. The staffing requirements and the general administrative responsibilities are outlined below. Before proceeding with the MOT process at your facility or agency, it is imperative that these administrative responsibilities be assigned to the appropriate staff and included in the facility or agency's policy and procedures.

### **A. Inpatient Facility Responsibilities**

Each facility must appoint a staff member as MOT Coordinator to:

- Have overall responsibility for the management of mandatory outpatient treatment procedures including the development of a system for tracking, monitoring, and record keeping;
- Ensure that MOT statutory criteria are met and MOT procedures are implemented; and
- Provide discharge data to TDMHDD MOT Coordinator

## **B. Outpatient Provider Responsibilities**

Each agency must appoint a staff member as MOT Coordinator to:

- Have overall responsibility for the management of mandatory outpatient treatment procedures including the development of a system for tracking, monitoring, and record keeping;
- Know, and maintain a list of, who is appointed as the qualified mental health professional (QMHP) for each MOT service recipient; monitor reviews of MOT status; assure copies of renewal/review documentation are sent to the appropriate persons; assure that legal papers are present and up to date, and act as a liaison with the legal system when necessary;
- Provide renewal, review, or termination data to TDMHDD MOT Coordinator; and
- Ensure that the service recipient under MOT has at least one treating professional assigned who meets the "**qualified mental health professional**" (QMHP) criteria as defined in T.C.A. Section 33-1-101(18):

“Qualified mental health professional” means a person who is licensed in the state, if required for the profession, and is a psychiatrist; physician with expertise in psychiatry as determined by training, education, or experience; psychologist with health service provider designation; psychological examiner, or senior psychological examiner; social worker who is certified with two (2) years of mental health experience or licensed; marital and family therapist; nurse who has a Master's degree in nursing who functions as a psychiatric nurse; professional counselor; or if the person is providing service to service recipients who are children, any of the above educational credentials plus mental health experience with children;

The qualified mental health professional (QMHP) is responsible for completing renewal, review, and termination documentation and filing affidavits of noncompliance or determining noncompliance if the affidavit has been filed by another person.

Each agency must provide for the appointment of a qualified mental health professional as a substitute in the absence of the service recipient's primary treating QMHP. This "substitute" QMHP should be available for purposes of completing renewals, reviews, and affidavits as necessary when the primary QMHP is unavailable.

If the provider is a sole practitioner they must establish a monitoring system to ensure that review, renewal, and termination documentation is completed in a timely manner per statutory provisions.





# **T.C.A. Section 33-6-602 (Civil)**

### III. CRITERIA FOR CIVIL MOT - T.C.A. SECTION 33-6-602

To be considered for mandatory outpatient treatment under T.C.A. Section 33-6-602, a service recipient must be currently committed involuntarily under Title 33, Chapter 6, Part 5, Tennessee Code Annotated.

#### A. Inpatient Facility Responsibilities

When considering a service recipient for MOT, the treatment team from the releasing facility, together with the proposed outpatient provider, must assess whether the service recipient meets the statutory criteria for MOT. The criteria are found in T.C.A. Section 33-6-602:

- The person has a mental illness or serious emotional disturbance or has a mental illness or serious emotional disturbance in remission, and
- The person's condition resulting from mental illness or serious emotional disturbance is likely to deteriorate rapidly to the point that the person will pose a likelihood of serious harm under T.C.A. Section 33-6-501(See Appendix B) unless treatment is continued, and

The person is likely to participate in outpatient treatment with a legal obligation to do so, and

- The person is **not** likely to participate in outpatient treatment unless legally obligated to do so, and
- Mandatory outpatient treatment is a suitable, less drastic alternative to commitment.

#### B. Outpatient Provider Responsibilities

- Provide information to the inpatient facility staff to help determine whether the service recipient meets criteria for MOT;
- Assist the inpatient facility in determining if the service recipient meets the criteria for MOT.

If both the inpatient treatment team and the outpatient provider determine that the service recipient meets all of the statutory criteria, then the process moves to the development stage of the MOT plan.

#### Note:

In assessing a service recipient for MOT, if it is determined that the service recipient will **voluntarily** comply with outpatient treatment, then MOT is **NOT** appropriate for that service recipient.

If the service recipient will **NOT** comply with outpatient treatment even if legally obligated to do so, then MOT is **NOT** appropriate for that service recipient.

## IV. DEVELOPING THE CIVIL MOT PLAN

Developing the MOT plan must be a collaboration between the inpatient treatment team from the releasing facility and the qualified mental health professional to allow the service recipient's treatment plan to benefit from the knowledge and experience of both.

Both the releasing facility and the outpatient provider must approve the MOT plan prior to the service recipient's discharge. The outpatient provider has no obligation to participate in providing services under MOT without involvement and agreement in developing the plan.

The MOT plan must be completed in a timely manner to prevent unnecessary delay of the service recipient's discharge. The MOT plan must be designed to maintain the service recipient's psychiatric stabilization and avoid deterioration of the service recipient's mental condition that would lead to the service recipient meeting the definition of "substantial likelihood of serious harm" (T.C.A. Section 33-6-602(2)). The MOT plan must include necessary outpatient treatment including but not limited to:

- psychotherapy
- medication management
- day treatment
- support services
- case management

### A. Inpatient Facility Responsibilities

- Locate an outpatient provider who will provide treatment to a service recipient on MOT. Invite them to review the records and meet with the service recipient to begin treatment planning, if this is feasible.

***Note: Not all out patient providers accept MOTs. You may want to involve the BHO in finding a provider, if necessary.***

- The service recipient should sign a consent to release information. Then, all necessary records should be provided to the receiving outpatient provider including:
  - a copy of the MOT plan;
  - a copy of the commitment order; and
  - a copy of the last renewal.
- Consult with the service recipient, and the adult service recipient's conservator, if any, to involve them in discharge and treatment planning.
- Consider the service recipient's declaration for mental health treatment, if applicable, in development of the plan.
- Consult with the designated qualified mental health professional.
- Negotiate a mutually acceptable MOT plan with the outpatient qualified mental health professional in a timely manner to prevent unnecessary delay of the service recipient's discharge.

- If the service recipient has no income and no financial resources, assist application for TennCare. If the service recipient is indigent and is not eligible for TennCare, contact TDMHDD for information regarding available services.
- **If the service recipient is a child**, the inpatient facility must consult with the child service recipient's parents, legal custodian, or legal guardian.

## **B. Outpatient Provider Responsibilities**

- In developing the MOT plan with the releasing facility, consult with the service recipient, the service recipient's parents, legal custodian, or legal guardian if the service recipient is a child, and the adult service recipient's conservator, if any.
- Consider the service recipient's declaration for mental health treatment, if applicable, in development of the MOT plan.
- **If the service recipient is a child**, assist the inpatient facility with consulting with the child service recipient's parents, legal custodian, or legal guardian.

### **Note:**

The MOT plan **should** be written to reflect the service recipient's obligation to participate in treatment. If the agency has agreed to an MOT plan stating that the client will cooperate with weekly case manager visits, the agency should, except incidentally, provide for that level of case management or make changes in the MOT plan.

## **V. FINALIZING THE CIVIL MOT PLAN**

### **A. Inpatient Facility Responsibilities**

After the MOT plan has been developed:

- Ensure that the appropriate staff from the inpatient facility and the outpatient provider approves and signs the MOT plan.
- Obtain the service recipient's consent to the MOT plan, to the extent practical. For children, obtain the consent of the parents, legal custodian, or legal guardian.

*The service recipient does not have to "agree" to the plan, but the service recipient should understand the obligation.*

- Inform the service recipient of his or her right to request court review of the MOT plan as the service recipient may request a judicial review of the MOT plan within 48 hours after being advised of their eligibility for release under it.
- If the service recipient requests judicial review, the hospital has the responsibility to notify the court of the service recipient's request for judicial review of the MOT plan. The court shall hold a hearing within seven days of the notice from the hospital to determine whether the treatment plan is medically appropriate and legally permissible. [See Form 2, MHDD-5211]
- Following the hearing, the court shall either approve the plan or request that the releasing facility and the qualified mental health professional modify the plan to correct deficiencies found by the court (T.C.A. Section 33-6-604). [See Form 3, MHDD-5212]
- Prior to discharge the hospital must provide a clear written statement of what the service recipient must do to stay in compliance with the plan to the following persons:
  - the service recipient;
  - the service recipient's parents, legal custodian, or legal guardian if the service recipient is a child;
  - the service recipient's spouse or other adult family member with whom the service recipient would live;
  - the service recipient's conservator, if any.

**If the service recipient is a child**, the releasing hospital shall provide a clear written statement of what the service recipient shall do to stay in compliance with the MOT plan to the service recipient, and the service recipient's parents, legal custodian, or legal guardian. The statement shall specify the duties of the child's parents, legal custodian, or legal guardian.

### **B. Outpatient Provider Responsibilities**

- Ensure that the appropriate qualified mental health professional approves and signs the plan.
- Assist the inpatient facility in obtaining the service recipient's consent to the plan, to the extent practical.

- Assist the service recipient and family members in understanding the obligations required by the MOT plan. This should include a discussion of compliance issues like keeping appointments and taking medication as well as what actions will be taken should the service recipient be non-compliant. The service recipient should understand that if he fails to comply with treatment without good cause he is subject to be returned to the hospital.

## **VI. DISCHARGING THE SERVICE RECIPIENT ON THE CIVIL MOT PLAN**

### **A. Inpatient Facility Responsibilities**

The discharge decision is the responsibility of the hospital, unless discharge is subject to judicial review of release under T.C.A. Section 33-6-708. If the court did not impose judicial review of release at the time of commitment and the service recipient does not wish to appeal their MOT plan, the service recipient is released without court involvement.

#### Judicial Review of Release (T.C.A. Section 33-6-708)

A criminal or juvenile court which has committed a person involuntarily under Title 33, Chapter 6, Part 5 may determine at the time of commitment that, due to the nature of the person's criminal conduct which created a serious risk of physical harm to other persons, the person should not be discharged from the commitment without proceedings to review eligibility for discharge.

When the chief officer determines that the person is eligible for discharge under T.C.A. Sections 33-6-705--33-6-706 or T.C.A. Section 33-6-602 (MOT), the chief officer shall notify the committing court of the desire to discharge and of the outpatient treatment plan approved by the releasing facility and the qualified mental health professional.

The court may order a hearing to be held within 21 days of receipt of the chief officer's notice. The court will send a notice to the service recipient, the chief officer, the service recipient's attorney, the service recipient's next of kin, and the district attorney general.

- If the court does not set a hearing and notify the chief officer within 15 days of receipt of the chief officer's notice, the chief officer shall release the service recipient.
- If the court sets a hearing to be held within 21 days of the chief officer's original notice, the service recipient shall attend the hearing, unless his or her presence is waived by counsel.
- If the court finds that the service recipient is not eligible for discharge, it shall order the service recipient's return to the hospital under the original commitment.
- If the court finds that the service recipient is eligible for discharge, it shall order the service recipient's release from involuntary commitment in accordance with the recommendations of the chief officer.



When all requirements for discharge are met (including request for court review of the MOT plan by the service recipient or requirement for judicial review by the criminal or juvenile court if applicable), the inpatient facility must:

- Follow normal procedures of notifying the committing court of the discharge of a person involuntarily committed. The notice shall state that the discharge is subject to the obligation to participate in outpatient treatment (T.C.A. Section 33-6-605). (Note: There is no requirement to send the committing court copies of the mandatory outpatient treatment plan. If this is desired, a release should be obtained from the service recipient.) [See Form 1, MHDD-5210]
- Notify the outpatient qualified mental health professional or designated outpatient MOT Coordinator by telephone that the service recipient is being discharged (this is the date that the MOT goes into effect). Be certain that the service recipient has an appointment with the QMHP and, if necessary, a supply of medication to last until they can be seen by the outpatient provider.
- Promptly send a copy of the signed MOT plan to the designated outpatient MOT Coordinator.
- File the MOT plan and notice to the court in the service recipient's medical record.
- Document in the service recipient's record the basis for the decision to discharge under mandatory outpatient treatment.
- Notify TDMHDD MOT Coordinator of the discharge and provide the following information about the service recipient:
  - Name
  - Social security number
  - Docket number
  - Outpatient provider accepting the MOT
  - Date of discharge
  - BHO (or other payment source--Medicare, VA benefits, private pay)
  - Type (Civil MOT, T.C.A. Section 33-6-602 )

## **B. Outpatient Provider Responsibilities**

- Receive the MOT plan from the inpatient facility
- Assure that the QMHP has a copy of the MOT plan
- Begin administrative and clinical duties to help the service recipient comply with the MOT plan

*The date of discharge is the date the MOT becomes effective.*

## **VII. MAINTAINING THE CIVIL MOT PLAN IN THE COMMUNITY**

### **A. Outpatient Provider Responsibilities**

It is the responsibility of the MOT Coordinator and/or qualified mental health professional (QMHP) to maintain a reliable system for ensuring the completion of MOT renewals every six months. Under the statute, the QMHP is responsible for renewing and terminating, if appropriate, the MOT.

#### **1. Renewals (T.C.A. Section 33-6-621)**

During the sixth month after a service recipient is discharged on MOT (or after the last renewal), the qualified mental health professional must assess whether the service recipient continues to meet the following criteria:

- The service recipient has a mental illness or serious emotional disturbance or has a mental illness or serious emotional disturbance in remission, AND
- The service recipient's condition resulting from mental illness or serious emotional disturbance is likely to deteriorate rapidly to the point that the person will pose a likelihood of serious harm under T.C.A. Section 33-6-501 unless treatment is continued, AND
- The service recipient is not likely to participate in outpatient treatment unless legally obligated to do so,

AND

- Mandatory outpatient treatment is a suitable less drastic alternative to commitment

If the service recipient continues to meet these criteria, then the qualified mental health professional must file a notice of renewal with the committing court. [See Form 13, MHDD-5222]

The QMHP must inform the service recipient of the decision to renew the MOT and of the service recipient's right to request a hearing in the committing court. (If the person does file a request for a court hearing, the committing court must hold a hearing within 30 days to review the MOT plan and to determine whether the MOT plan should be renewed or whether the person should be discharged from the MOT obligation (T.C.A. Section 33-6-622).) [See Form 15, MHDD-5224]

Copies of the renewal must be sent to:

- the service recipient;
- the service recipient's conservator, if any;
- the service recipient's parents, legal custodian, or legal guardian if the service recipient is a child;
- the service recipient's attorney (if known);
- the discharging hospital; and
- the TDMHDD MOT Coordinator.

Subsequent renewals must be filed every six months.

## **2. Expired/Lapsed MOTs (T.C.A. Section 33-6-623)**

The service recipient's obligation to participate in mandatory outpatient treatment terminates six months after the discharge or the last renewal of the obligation. If the QMHP fails to renew or terminate the MOT during the sixth month after discharge or the last renewal, the MOT automatically expires.

## **3. Termination (T.C.A. Section 33-6-620)**

At any time during the course of outpatient treatment, if the QMHP determines that the service recipient:

- is likely to participate in outpatient treatment without being legally obligated to do so, OR
- no longer needs treatment for mental illness or serious emotional disturbance,

then the QMHP shall **terminate** the MOT.

A notice of termination must be completed by the QMHP and filed with the committing court. [See Form 12, MHDD-5221] Copies of the termination must be sent to:

- the discharging hospital;
- the committing court;
- the service recipient;
- the service recipient's attorney; and
- the TDMHDD MOT Coordinator

## **4. Transfers of MOTs between outpatient providers**

If circumstances warrant the transfer of a service recipient to another outpatient provider, then:

- the transferring outpatient provider must coordinate the transfer of the MOT with the receiving qualified mental health professional.
- the MOT Coordinator at the transferring outpatient provider must contact the MOT Coordinator at the receiving outpatient provider to plan for the timely and orderly transfer.

Not all outpatient providers accept the care of service recipient's on MOT. Contact the BHO in finding a provider, if necessary.

The service recipient should sign a consent to release information. Then, all necessary records should be provided to the receiving outpatient provider including:

- a copy of the MOT plan;
- a copy of the commitment order; and
- and a copy of the last renewal.

If the transfer occurs during the month of renewal, the transferring outpatient provider should ensure that the renewal is completed prior to the transfer. If, in the process of arranging a transfer, a decision is made that the service recipient no longer meets MOT criteria, the termination should be filed by the transferring outpatient provider before the service recipient is transferred.

After all arrangements are completed, and the receiving outpatient provider has accepted and agreed on a date for transfer, the MOT Coordinator at the transferring outpatient provider should send a notice that the service recipient's MOT is being transferred to another outpatient provider to:

- the service recipient;
- the court;
- the service recipient's attorney;
- the discharging hospital; and
- TDMHDD MOT Coordinator.

*This notice must indicate the date that the transfer will be effective.*

**5. Changing the MOT plan**

At any time during the MOT obligation, the qualified mental health professional may negotiate changes in the MOT plan with the service recipient to better meet the needs of the service recipient and promote compliance (T.C.A. Section 33-6-606).

**6. Payment**

If the service recipient is not indigent or the person is not eligible for payment for services under any other governmentally or privately funded system, the person is responsible for payment for the services.

If a service recipient who has no income and no financial resources is discharged under MOT, the service recipient should be assisted to apply for TennCare.

If the service recipient is indigent and is not eligible for TennCare, contact TDMHDD for information regarding available services.

## **VIII. NON-COMPLIANCE WITH THE CIVIL MOT PLAN**

### **A. Outpatient Provider Responsibilities**

The agency staff working with the service recipient (case manager, physician, and/or therapist) should be familiar with the service recipient's MOT plan and should inform the MOT Coordinator and the qualified mental health professional who is the assigned "treating professional" if the service recipient is non-compliant (T.C.A. Section 33-6-609). The treating professional should enlist the aide of the treatment team and make every attempt to restore the service recipient to compliance.

#### **1. Affidavits**

When a service recipient is non-compliant with his or her MOT plan without good cause, an affidavit of non-compliance may be filed showing that the service recipient is out of compliance and is not likely to comply voluntarily.

An affidavit is basically a sworn statement, notarized and sent to the committing court or the court with the same jurisdiction as the committing court where the client is, detailing non-compliance (T.C.A. Section 33-6-609).

The affidavit must show that:

- The service recipient is required to be participating in mandatory outpatient treatment;
- The service recipient is, without good cause, out of compliance with the treatment plan; and
- The qualified mental health professional believes the noncompliance is not likely to be corrected voluntarily.

An example of an affidavit format in general use is included in the Forms section of this training manual. [See Form 4, MHDD-5213] After the affidavit is filed, responsibility for further action falls upon the court.

Affidavits of non-compliance can be filed by:

- Qualified mental health professional;
- Parent;
- Legal guardian;
- Conservator;
- Spouse;
- Responsible relative;
- Person who initiated the commitment proceeding of the service recipient; or
- Chief officer of the discharging facility.

The affidavit may be filed in the committing court OR any court with jurisdiction under Title 33, Chapter 6, Part 5 in the county where the person is being treated or staying. The court may require an attorney to file the affidavit.

## **IX. COURT PROCEEDINGS**

### **A. Court proceedings in the Community**

After the affidavit is filed with the court, the court may issue an order for the service recipient to appear in court no later than five business days after issuance of the court order.

A copy of the affidavit and court order will be served to:

- the service recipient;
- the service recipient's attorney;
- the QMHP; and
- the District Attorney if the discharge had judicial review of release (T.C.A. Section 33-6-708)

#### **1. Service Recipient Appears In Court**

If the service recipient responds to the notice and appears in court, the court shall hold a hearing to determine whether the service recipient is required to be participating in outpatient treatment and is not, without good cause, complying with the treatment plan (T.C.A. Section 33-6-610(a)).

If the court determines that the service recipient:

- is complying with the treatment plan,

OR

- is out of compliance for good cause and will be restored to compliance without further action,

then the court shall release the service recipient (T.C.A. Section 33-6-610(b)) and the MOT plan continues. [See Form 6, MHDD –5215]

If the court determines that the service recipient:

- is out of compliance with the plan without good cause and can be put immediately in compliance with the treatment plan and can be expected to stay in compliance without further hospitalization,

then the court shall make a written finding, order the service recipient to comply immediately, and dismiss the proceedings upon showing that the service recipient is in compliance (T.C.A. Section 33-6-610(c)). [See Form 6, MHDD-5215]

If the court determines that the service recipient:

- is out of compliance with the plan without good cause,

AND

- cannot be put in compliance with the plan immediately,

OR

- cannot be expected to stay in compliance without further hospitalization,

then the court shall order the service recipient recommitted to the hospital from which he or she was discharged. The sheriff shall transport the service recipient as ordered and the hospital shall admit the person (T.C.A. Section 33-6-610(d)). [See Form 6, MHDD-5215]

If a person is ordered to be re-hospitalized for noncompliance with the treatment plan, after a hearing under T.C.A. Section 33-6-610, the person shall be held under the authority of the original court order of commitment entered in the proceedings under Title 33, Chapter 6, Part 5.

## **2. Service Recipient Does Not Appear In Court and Affidavit Filed By QMHP**

If the QMHP has filed an affidavit of non-compliance, and the service recipient does not respond to the order to appear, the court shall order the service recipient taken into custody and the sheriff shall immediately transport the person to the hospital from which the person was discharged (T.C.A. Section 33-6-611). [See Form 7, MHDD-5216]

The hospital shall admit the person and give notice of the temporary recommitment and that a hearing under T.C.A. Section 33-6-610 be scheduled. See court proceedings in the hospital section below. [See Form 8, MHDD-5217]

## **3. Service Recipient Does Not Appear In Court and Affidavit Filed By Someone Other Than The QMHP**

If the service recipient does not respond to the order to appear, the court shall order that he or she be taken into custody and transported to the qualified mental health professional for examination. The officer who serves the order on the person shall take the person to the qualified mental health professional or the professional's appointed substitute (T.C.A. Section 33-6-612). [See Form 9, MHDD-5217]

If the QMHP determines that the service recipient:

- is complying with the treatment plan,
- OR
- is out of compliance for good cause and will be restored to compliance without further action,

then the QMHP shall release the service recipient (T.C.A. Section 33-6-614(a)) and notify the Court of the basis for the release. [See Form 10, MHDD-5219]

If the QMHP determines that the service recipient:

- is out of compliance with the plan without good cause and can be put immediately in compliance with the treatment plan and can be expected to stay in compliance without further hospitalization,

then the QMHP shall release the service recipient (T.C.A. Section 33-6-614(b)) and notify the court of the basis for the release. [See Form 10, MHDD-5219]

If the QMHP determines that the service recipient:

- is out of compliance with the plan without good cause,
- AND
- cannot be put in compliance with the plan immediately,
- OR
- cannot be expected to stay in compliance without further hospitalization,

then the QMHP shall contact the sheriff and the sheriff shall immediately transport the person to the hospital from which he or she was discharged. [See Form 10, MHDD-5219]

The hospital shall admit the person and give notice of the temporary recommitment and that a hearing under T.C.A. Section 33-6-610 be scheduled. See court proceedings in the hospital section below. [See Form 8, MHDD-5217]

## **B. Court proceedings in the Hospital**

If the person did not respond to the order to appear following an affidavit filed by the QMHP, or if the QMHP has evaluated the person following the filing of the affidavit and determines that they are out of compliance without good cause, the sheriff will transport the person to the hospital from which the person was discharged.

The inpatient facility shall admit the person and make arrangements to hold a non-compliance hearing under T.C.A. Section 33-6-610. Notice of the temporary recommitment, and that a hearing will be held under T.C.A. Section 33-6-610, must be given to the:

- service recipient;
- service recipient's attorney;
- legal guardian;
- legal custodian;
- conservator, if any;
- spouse or nearest adult relative (including parent of a minor);
- outpatient provider qualified mental health professional;
- court which ordered the temporary recommitment of the person; and
- court where the hospital is located that has the same jurisdiction as the recommitting court.

The court shall schedule a hearing to be held under T.C.A. Section 33-6-610 within five (5) business days.

## **UNDER NO CIRCUMSTANCES SHOULD THE INDIVIDUAL BE CONVERTED TO TITLE 33, CHAPTER 6, PART 2, TENN. CODE ANN. (VOLUNTARY) STATUS PRIOR TO THE NON-COMPLIANCE HEARING.**

The court shall hold a hearing to determine whether the person is required to be participating in outpatient treatment and is, without good cause, not complying with the treatment plan.



If the court determines that the service recipient:

- is complying with the treatment plan,
- OR
- is out of compliance for good cause and will be restored to compliance without further action,

then the court shall release the service recipient (T.C.A. Section 33-6-610(b)). [See Form 6, MHDD-5215]

If the court determines that the service recipient:

- is out of compliance with the treatment plan without good cause and can be put immediately in compliance with the treatment plan and can be expected to stay in compliance without further hospitalization,

then the court shall make written findings of fact and conclusions of law on the issues, order the person to comply immediately with the treatment plan, and dismiss the proceedings upon a showing the person is in compliance (T.C.A. Section 33-6-610(c)). [See Form 6, MHDD-5215]

If the court determines that the service recipient:

- is out of compliance with the plan without good cause,
- AND
- cannot be put in compliance with the plan immediately,
- OR
- cannot be expected to stay in compliance without further hospitalization,

then the court shall make written findings of fact and conclusions of law on the issues and order the person re-committed to the hospital. [See Form 6, MHDD-5215]

If a person is ordered to be re-hospitalized for noncompliance with the treatment plan, after a hearing under T.C.A. Section 33-6-610, the person shall be held under the authority of the original court order of commitment entered in the proceedings under Title 33, Chapter 6, Part 5, and any other pending proceedings under Title 33, Chapter 6, Part 4 or 5, shall be dismissed.

## **X. READMISSION OF A SERVICE RECIPIENT ON CIVIL MOT**

There are three ways in which a service recipient who is on MOT may be readmitted to a hospital:

1. Admission that is **NOT** due to non-compliance with MOT;
2. Admission that follows a non-compliance hearing; or
3. Admission following affidavit of non-compliance.

When a service recipient is readmitted, it is important that a process of evaluation begin immediately to determine if the service recipient continues to meet the criteria for MOT and if MOT remains a suitable, less restrictive, alternative to commitment.

### **A. Admission NOT due to non-compliance with MOT (T.C.A. Section 33-6-608)**

In the case of an admission that is **NOT** due to non-compliance with MOT, the obligation to participate in mandatory outpatient treatment is suspended while the service recipient is hospitalized.

#### **1. Inpatient Facility Responsibilities**

- The admission would proceed as usual per statutory provisions (e.g. Title 33, Chapter 6, Part 4).
- Notify the QMHP and/or MOT Coordinator at the outpatient provider as soon as possible of the admission and involve them in assessment and discharge planning.

The treatment team should immediately involve the outpatient provider in determining whether the service recipient continues to meet the criteria for MOT. When considering the history of compliance with MOT, be sure to ascertain if the QMHP has made changes in the MOT plan since the last discharge.

#### **2. Discharge Considerations**

If the service recipient is discharged prior to a judicial commitment under Title 33, Chapter 6, Part 5, the inpatient facility must notify the outpatient provider (QMHP) of the discharge and help coordinate the resumption of the MOT plan.

The inpatient facility must provide information about possible changes in the MOT plan (e.g. changes in medication). Recommendations can be given that might impact renewal or termination. Bear in mind that upon discharge, decisions regarding changes in the MOT plan, renewal, or termination of the MOT are the responsibility of the outpatient provider (QMHP).

If the service recipient is judicially committed under Title 33, Chapter 6, Part 5, the inpatient facility shall consider whether the person can be discharged:

- to voluntary outpatient treatment under T.C.A. Section 33-6-706

OR

- whether the person is eligible for discharge only under T.C.A. Section 33-6-602 (mandatory outpatient treatment).

When considering a service recipient for MOT, the treatment team from the releasing facility must assess whether the service recipient, currently meets the statutory criteria for MOT. The criteria as listed below are found in T.C.A. Section 33-6-602:

- The person has a mental illness or serious emotional disturbance or has a mental illness or serious emotional disturbance in remission, and
- The person's condition resulting from mental illness or serious emotional disturbance is likely to deteriorate rapidly to the point that the person will pose a likelihood of serious harm under T.C.A. Section 33-6-501(See Appendix B) unless treatment is continued, and
- The person is likely to participate in outpatient treatment with a legal obligation to do so, and
- The person is **not** likely to participate in outpatient treatment unless legally obligated to do so, and
- Mandatory outpatient treatment is a suitable, less drastic alternative to commitment.

### 3. Outpatient Provider Responsibilities

- Provide information to the inpatient facility staff to help determine whether the service recipient meets criteria for MOT.
- Assist the inpatient facility in determining if the service recipient meets the criteria for MOT.
- Provide information on whether the service recipient benefited or did not benefit from MOT.

If both the inpatient treatment team and the outpatient provider determine that the service recipient meets all of the above criteria, then the process moves to the development stage of the MOT plan.

#### Note:

In assessing a service recipient for MOT, if it is determined that the service recipient will **voluntarily** comply with outpatient treatment, then MOT is **NOT** appropriate for that service recipient.

If the service recipient will **NOT** comply with outpatient treatment even if legally obligated to do so, then MOT is **NOT** appropriate for that service recipient.

If it is determined that the service recipient no longer meets the criteria for MOT, it is the responsibility of the QMHP at the outpatient provider to notify the court of the termination.

**B. Readmission following non-compliance hearing (T.C.A. Section 33-6-610)**

When an affidavit of noncompliance has been filed in the community, the court will hold a hearing to determine whether the person is required to be participating in outpatient treatment and is, without good cause, not complying with the treatment plan (T.C.A. Section 33-6-610(a)).

If the court determines that the person is out of compliance with the treatment plan:

- Without good cause,
- That the person cannot be put in compliance with the treatment plan immediately,  
OR
- The person cannot be expected to stay in compliance without further hospitalization,

then the court shall order the person re-committed to the hospital from which the person was released. The sheriff shall immediately transport the person as ordered (T.C.A. Section 33-6-610(d)). [See Form 6, MHDD-5215]

**1. Inpatient Facility Responsibilities**

The hospital shall admit the person and give notice of the recommitment to:

- the person's attorney;
- legal guardian;
- legal custodian;
- conservator;
- spouse or nearest adult relative (including parent of a minor);
- the qualified mental health professional;
- the committing court; and
- if the discharge was under T.C.A. Section 33-6-708, to the District Attorney General of the committing court (T.C.A. Section 33-6-610(d))

Upon readmission, the obligation to participate in mandatory outpatient treatment is suspended, and the obligation resumes upon discharge unless the obligation has been terminated by:

- the outpatient qualified mental health professional;
- the court;
- has lapsed; or
- the service recipient is discharged to voluntary outpatient treatment under T.C.A. Section 33-6-706 (T.C.A. Section 33-6-608).

After readmission, the treatment team must:

- assess whether the person can be discharged to voluntary outpatient treatment under T.C.A. Section 33-6-706,

OR

- whether the person is eligible for discharge only under mandatory outpatient treatment (T.C.A. Section 33-6-602). (See criteria listed above)

## **2. Discharge Considerations**

If there is a decision to discharge on voluntary outpatient treatment and to discontinue the MOT, the inpatient facility should notify the following of the decision to discharge without MOT:

- the committing court;
- the outpatient MOT Coordinator and/or the qualified mental health professional;
- TDMHDD MOT Coordinator;
- the service recipient; and
- the service recipient's attorney.

If the service recipient is a child, also notify:

- parents;
- legal guardian; and
- legal custodian.

If the decision is made to discharge under MOT, the above persons should be informed of the plan to resume the MOT obligation upon discharge.

## **3. Outpatient Provider Responsibilities**

- Provide information to the inpatient facility staff to help determine whether the service recipient meets criteria for MOT;
- Assist the inpatient facility in determining if the service recipient meets the criteria for MOT; and
- Provide information on whether the service recipient benefited or did not benefit from MOT.

If both the inpatient treatment team and the outpatient provider determine that the service recipient meets all of the above criteria, then the process moves to the development stage of the MOT plan.

### **Note:**

In assessing a service recipient for MOT, if it is determined that the service recipient will **voluntarily** comply with outpatient treatment, then MOT is **NOT** appropriate for that service recipient.

If the service recipient will **NOT** comply with outpatient treatment even if legally obligated to do so, then MOT is **NOT** appropriate for that service recipient.

If it is determined that the service recipient no longer meets the criteria for MOT, it is the responsibility of the QMHP at the outpatient provider to notify the court of the termination.

### **C. Readmission following affidavit of non-compliance**

If an affidavit of non-compliance was filed by the qualified mental health professional in the community, and the service recipient did not respond to the order to appear in court, the court will order the person taken into custody and immediately transported to the discharging hospital by the sheriff (T.C.A. Section 33-6-611). [See Form 7, MHDD-5216]

If the affidavit was filed by someone other than the QMHP, and the service recipient does not respond to the order to appear, the court will order the service recipient taken into custody and transported to the QMHP (or the professional's appointed substitute) for evaluation (T.C.A. Section 33-6-612). [See Form 9, MHDD-5218]

If the QMHP determines that the service recipient is out of compliance with the treatment plan without good cause, cannot be put immediately in compliance, and cannot be expected to stay in compliance without further hospitalization, then the QMHP must contact the sheriff and have the service recipient immediately transported to the hospital from which the service recipient was discharged (T.C.A. Section 33-6-615). [See Form 10, MHDD-5219]

### **1. Inpatient Facility Responsibilities**

The inpatient facility shall admit the person and give notice of the temporary recommitment and make arrangements to hold a non-compliance hearing under T.C.A. Section 33-6-610. (See the court proceedings in the hospital on page 18).

If a person is ordered to be re-hospitalized for noncompliance with the treatment plan, after a hearing under T.C.A. Section 33-6-610, the person shall be held under the authority of the original court order of commitment entered in the proceedings under Title 33, Chapter 6, Part 5, and any other pending proceedings under Chapter 6, Part 4 or 5, shall be dismissed.

### **2. Discharge Considerations**

#### **a. If the Court Does Not Re-Commit the Service Recipient**

If the court releases the service recipient (see process under the court proceedings in the hospital section) the Inpatient Facility must notify:

- the QMHP (inform them of any treatment recommendations); and
- the TDMHDD MOT Coordinator.

If the service recipient is a child, also notify:

- parents;
- legal guardian; and
- legal custodian.

**b. If the Court Does Re-Commit the Service Recipient**

When making decisions about discharge the Inpatient Facility must consider whether the discharge should be to voluntary outpatient treatment and discontinue the MOT, or if the service recipient should remain on MOT.

If the decision is that the person be discharged to voluntary outpatient treatment, and the MOT is discontinued, the inpatient facility should notify the following of the decision to discharge without MOT:

- the committing court;
- the outpatient MOT Coordinator and/or the qualified mental health professional;
- TDMHDD MOT Coordinator;
- the service recipient; and
- the service recipient's attorney.

If the service recipient is a child, also notify:

- parents;
- legal guardian; and
- legal custodian.

If the decision is made to discharge under MOT, the above persons should be informed of the plan to resume the MOT obligation upon discharge.

## **T.C.A. Section 33-7-303(b)**



## **XI. CRITERIA FOR 303(b) MOT**

When a person is found Not Guilty by Reason of Insanity (NGRI), the criminal court orders the person for diagnosis and evaluation for a minimum of sixty days and a maximum of ninety days in a hospital or treatment resource.

Service recipients appropriate for mandatory outpatient treatment under T.C.A. Section 33-7-303(b) must meet the following criteria:

- Acquitted of a criminal charge by reason of insanity, AND
- Have been hospitalized under T.C.A. Section 33-7-303(a) for a 60 to 90 day evaluation, AND
- Found to not meet commitment standards under Title 33, Chapter 6, Part 5.

AND

- Have a condition resulting from mental illness that is likely to deteriorate rapidly to the point that the person will pose a substantial likelihood of serious harm under T.C.A. Section 33-6-501 (See Appendix B) unless treatment is continued.

## **XII. DEVELOPING THE 303(b) MOT PLAN**

Developing the MOT plan must be a collaboration of the inpatient treatment team from the releasing facility and the qualified mental health professional from the outpatient provider to allow the service recipient's treatment plan to benefit from the knowledge and experience of both.

Both the releasing facility and the outpatient QMHP must approve the MOT plan which must be completed in a timely manner to facilitate discharge prior to the end of the ninety-day evaluation period. The QMHP has no obligation to participate in a MOT plan without involvement in developing and agreement to the plan.

The MOT plan should be designed to maintain the service recipient's psychiatric stabilization and avoid deterioration of the service recipient's mental condition that would once again lead to the service recipient meeting the definition of substantial likelihood of serious harm. The MOT plan should include necessary outpatient treatment such as:

- Psychotherapy
- Medication management
- Case management
- Support services

### **A. Inpatient Facility Responsibilities**

When the service recipient has been admitted to the hospital for a 60-90 day evaluation following a verdict of Not Guilty by Reason of Insanity (T.C.A. Section 33-7-303(a)), the inpatient facility must:

- Assess the service recipient for either:
  - commitment to involuntary hospitalization under T.C.A. Section 33-7-303(c);
  - OR
  - MOT under T.C.A. Section 33-7-303(b);
- Notify the service recipient and document in service recipient's chart the basis for the MOT decision and recommendation to the court, if the service recipient meets criteria for MOT under T.C.A. Section 33-7-303(b);
- Ensure that the outpatient qualified mental health professional to whom the service recipient will be referred is involved in the development of the MOT plan and is in agreement with the plan;
- Ensure timely completion of MOT plan;
- Comply with TDMHDD forensic standards, including applicable time frames;
- Consider the service recipient's declaration for mental health treatment, if applicable, in development of the plan; and
- Notify the outpatient provider of the discharge.

**B. Outpatient Provider Responsibilities**

In developing the MOT plan with the releasing facility, the QMHP must consult with the following:

- the service recipient;
- the adult service recipient's conservator, if any;
- the service recipient's parents, if a minor;
- the legal custodian, if a minor;
- the legal guardian, if a minor.

In developing the MOT plan, consider the service recipient's declaration for mental health treatment, if applicable.

### **XIII. FINALIZING THE 303(b) MOT PLAN**

#### **A. Inpatient Facility Responsibilities**

After the MOT plan has been developed:

- Ensure that the appropriate staff from the inpatient facility and the QMHP approves and signs the MOT plan;
- Obtain the service recipient's consent to the plan, to the extent practical.

*The service recipient does not have to "agree" to the plan, but the service recipient should understand the obligation.*

- Notify the district attorney general for filing of a complaint in criminal court for an order requiring the person to participate in outpatient treatment under T.C.A. Section 33-7-303(b). [See Form 15, MHDD-5224]
- Send a copy of the notice to TDMHDD, Division of Mental Health Services, Office of Special Services
- Send a copy of the notice and the MOT plan to the outpatient qualified mental health professional
- Give a copy of the MOT plan to the
  - service recipient;
  - adult service recipient's conservator, if any;
  - the service recipient's parents, if a minor;
  - legal guardian, if applicable;
  - legal custodian, if applicable;
  - and spouse or other adult family member with whom the person will live;
- File the MOT plan in the service recipient's record; and
- Testify in court, if ordered, on the MOT plan.

#### **B. Outpatient Provider Responsibilities**

- Ensure that the appropriate qualified mental health professional approves and signs the MOT plan;
- Assist the inpatient facility in obtaining the service recipient's consent to the plan, to the extent practical; and
- Assist the service recipient and family members in understanding the obligations required in the MOT plan and any subsequent legal proceeding for non-compliance.

If 303(b) MOT is recommended, the court shall hold a hearing prior to the end of the 90-day evaluation period and may order outpatient treatment under T.C.A. Section 33-7-303(b). The QMHP is usually asked to testify at this hearing. The hospital will notify the outpatient provider (QMHP) of the discharge date.

## **XIV. DISCHARGING THE SERVICE RECIPIENT ON THE 303(b) MOT PLAN**

### **A. Inpatient Facility Responsibilities**

The hospital shall not release the person without specific authorization of the court until the end of the ninety-day evaluation period. The hospital must release the person at the expiration of the ninety-day detention order unless the person has been ordered committed.

If the court does not commit the service recipient under T.C.A. Section 33-7-303(c), and determines that the person's condition resulting from mental illness is likely to deteriorate rapidly to the point that the person will pose a substantial likelihood of serious harm under T.C.A. Section 33-6-501 unless treatment is continued, then the court may order the person to participate in outpatient treatment (T.C.A. Section 33-7-303(b)(3)). [See Form 15, MHDD-5224]

The hospital must:

- Notify the outpatient MOT Coordinator (QMHP) of the discharge;
- Provide the outpatient MOT Coordinator (QMHP) a copy of the letter to the court recommending MOT;
- Promptly send a copy of the MOT plan to the designated outpatient MOT Coordinator (QMHP); and
- If the 303(b) court order has been obtained prior to discharge, send a copy of it to the outpatient MOT Coordinator (QMHP).

Notify TDMHDD, Division of Mental Health Services, MOT Coordinator of the discharge, the recommendation for MOT, and provide the following information about the service recipient:

- Name;
- Social security number;
- Docket number;
- Outpatient provider accepting the MOT;
- Date of discharge;
- BHO (or other payment source--Medicare, VA benefits, private pay);
- Type of MOT (303(b) MOT)
- Status (is MOT just a recommendation or do we have a copy of the court order?)

### **B. Outpatient Provider Responsibilities**

- Receive the MOT plan from the inpatient facility;
- Begin administrative and clinical duties to help the service recipient comply with the MOT plan;
- Assure that the QMHP has a copy of the MOT plan.

If, after 30 days following discharge of the service recipient, the outpatient MOT Coordinator (QMHP) has not received a copy of the T.C.A. Section 33-7-303(b) order from the court, the court should be contacted to request a copy of the order.

*The MOT becomes effective the date of the discharge or the date of the court order, whichever is later.*

### **C. Termination**

The obligation to participate in mandatory outpatient treatment continues until it is terminated by the court under T.C.A. Section 33-7-303(b)(5). **The outpatient provider does not have the option to terminate the T.C.A. Section 33-7-303(b) MOT.** The outpatient qualified mental health professional is responsible for filing a report with the district attorney general every six (6) months on the service recipient's continuing need for treatment. The QMHP can recommend termination but only the court can terminate. [See Form 18, MHDD-5227]

## **XV. MAINTAINING THE 303(b) MOT PLAN IN THE COMMUNITY**

### **A. Outpatient Provider Responsibilities**

It is the responsibility of the MOT Coordinator and/or qualified mental health professional to maintain a reliable system for ensuring the completion of 303(b) MOT reviews every six (6) months.

#### **1. Reviews**

The six-month review of the 303(b) MOT must be filed with the district attorney general (T.C.A. Section 33-7-303(b)(4)). This report is called a “review” rather than “renewal” as the 303(b) MOT cannot expire automatically unlike the Civil MOT. The review must contain information about the status of the service recipient's compliance and continued need for treatment but should NOT contain detailed clinical information. [See Form 16, MHDD-5225] The treating professional must carefully monitor compliance and strive to restore the service recipient to compliance if there are any problems. An attempt should be made to intervene early if it appears the service recipient is decompensating. It is not necessary to wait for the six-month review to report non-compliance or to take action to bring the service recipient into compliance. [See Form 17, MHDD-5226]

Copies of the six-month review must be sent to:

- the service recipient;
- the service recipient's attorney;
- the discharging hospital; and
- TDMHDD MOT Coordinator.

***Note: When a 303(b) MOT is being reviewed, the service recipient does not have a right to judicial review of the decision to continue the MOT plan.***

#### **2. Expired/Lapsed MOTs**

The 303(b) MOT cannot expire or lapse automatically. Even if the QMHP fails to review during the sixth month after discharge or the last review, the 303(b) MOT is still in effect. The 303(b) MOT can only be ended by the court.

#### **3. Termination**

The 303(b) MOT can only be terminated by the court (T.C.A. Section 33-7-303(b)(5)). The QMHP cannot terminate the 303(b) MOT. If, during the course of outpatient treatment, the QMHP determines that the service recipient no longer needs treatment for mental illness or serious emotional disturbance the QMHP should notify the court of his or her findings. However, the decision to continue or terminate the 303(b) MOT is made by the court. [See Form 18, MHDD-5227]

#### **4. Transfers of MOTs Between Outpatient Providers**

If circumstances arise which warrant the possible transfer of a service recipient to another outpatient provider (e.g. desire to move to another community) the MOT Coordinator (QMHP) should contact other potential providers to discuss possible transfer. Note that not all outpatient providers (QMHP's) accept 303(b) MOTs.

If another QMHP is found, the service recipient must sign a release of information and all necessary records must be transferred to the new QMHP including:

- a copy of the MOT plan;
- a copy of the 303(b) MOT order; and
- a copy of the last review.

After all arrangements are completed, and the receiving QMHP has accepted and agreed on a date for transfer, the MOT Coordinator (QMHP) at the transferring provider must send a notice that the service recipient's MOT is being transferred to another provider (QMHP) to:

- the service recipient;
- the district attorney general;
- the service recipient's attorney;
- the discharging hospital; and
- TDMHDD MOT Coordinator.

If the transfer is scheduled during the month a review is due, the transferring QMHP must ensure that the review is completed prior to the transfer.

***This notice must indicate the date that the transfer will be in effect.***

#### **5. Changing the 303(b) MOT plan**

The QMHP may change the 303(b) MOT plan to better meet the treatment needs of the service recipient. However, if the court has put specific provisions in the 303(b) order, those components of the plan should not be changed without court approval.

#### **6. Payment**

T.C.A. Section 33-7-303(f) allows the cost of treatment incurred as a result of the outpatient treatment and evaluation required under 303(b) to be taxed as court costs. If funds are not available from other sources, the court should be billed for the cost of treatment. However, reimbursement from the courts has been very infrequent in the past.

If the service recipient is not indigent or the person is eligible for payment for services under any governmentally or privately funded system, the service recipient is responsible for payment for the services.

If a service recipient who has no income and no financial resources is being considered for discharge under MOT, the service recipient should be assisted to apply for TennCare. Staff of the inpatient facility should assist the service recipient with application for any third party payments.



## **XVI. NON-COMPLIANCE WITH THE 303(b) MOT PLAN**

### **A. Outpatient Provider Responsibilities**

The agency staff working with the service recipient (case manager, physician, and/or therapist) should be familiar with the service recipient's MOT plan and should inform the MOT Coordinator and the qualified mental health professional who is the assigned "treating professional" when the service recipient is non-compliant. [See Form 17, MHDD-5226] The treating QMHP should enlist the aide of the treatment team and make every attempt to restore the service recipient to compliance.

If the service recipient cannot be restored to compliance with the MOT plan, the outpatient qualified mental health professional shall:

- Immediately notify the district attorney general by phone and promptly file a written report with the district attorney general of the non-compliance. The district attorney general may move the criminal court to cite the person for civil or criminal contempt for the non-compliance and may file a complaint in the criminal court under the provisions of Title 33, Chapter 6, Part 5;
- Provide a copy of the written notice to the service recipient;
- Provide a copy of the written notice to the service recipient's attorney;
- Document the basis of non-compliance in the service recipient's clinical record; and
- Provide court testimony as appropriate.

If noncompliance is documented in the six-month review, or a report of non-compliance is filed, the review or report should clearly indicate:

- Specific components of the MOT plan with which the service recipient is out of compliance;
- Actions the QMHP has taken to restore the service recipient to compliance with the MOT plan; and
- The recommended plan of action to the district attorney general (How do you want the court to respond to your report of non-compliance? What type of action or assistance is necessary to bring the service recipient into compliance?).

## **XVII. COURT PROCEEDINGS**

If, following a complaint from the district attorney general, the criminal court holds a non-compliance hearing, the court may:

- Terminate the MOT if the criteria are no longer met;
- Restore the service recipient to compliance and continue MOT.
- Find the service recipient in civil or criminal contempt of court and detain them accordingly.
- Request additional evaluation to determine if the service recipient currently meets commitment standards under Title 33, Chapter 6, Part 4 or 5.

## **XVIII. ADMISSION OF A SERVICE RECIPIENT ON 303(b) MOT**

A service recipient cannot be readmitted directly to a hospital under the provisions of T.C.A. Section 33-7-303(b). However, the Criminal Court could ask that the person be reevaluated to determine if they currently meet commitment standards, and this could lead to commitment under Title 33, Chapter 6, Part 5. A service recipient might be admitted for reasons unrelated to the 303(b) MOT (e.g. emergency involuntary hospitalization).

### **A. Admission unrelated to 303(b) MOT**

The obligation to participate in mandatory outpatient treatment is suspended while the service recipient is hospitalized but will resume when discharged unless terminated by the court.

#### **1. Inpatient Facility Responsibilities**

In the case of an emergency hospitalization under Title 33, Chapter 6, Part 4 or a commitment under Title 33, Chapter 6, Part 5:

- The admission would proceed as usual per statutory provisions.
- Notify the QMHP and/or MOT Coordinator at the outpatient provider as soon as possible to inform them of the admission and involve them in assessment and discharge planning.

### **B. Discharge Considerations**

#### **1. If committed under Title 33, Chapter 6, Part 4**

If the service recipient has been admitted as an emergency and is going to be discharged prior to a judicial commitment under Title 33, Chapter 6, Part 5, the inpatient facility staff must notify the QMHP of the discharge and help coordinate the continuance of MOT. The obligation to participate in mandatory outpatient treatment resumes upon discharge unless the obligation has been terminated by the Court. The inpatient facility must provide information or recommendations about possible changes in the MOT plan (e.g. changes in medication) to the service recipient and the QMHP.

#### **2. If committed under Title 33, Chapter 6, Part 5**

If the service recipient is involuntarily committed under Title 33, Chapter 6, Part 5, the inpatient facility shall consider whether:

- the court desires resumption of MOT under 303(b);

OR

- the service recipient meets the criteria for Civil MOT (T.C.A. Section 33-6-602);

AND/OR

- to voluntary outpatient treatment with the court's permission

Following an involuntary commitment, it is possible that a service recipient already under 303(b) MOT could also be placed under a Civil MOT. This would be done primarily if it were felt that the ability to quickly rehospitalize the service recipient for non-compliance was necessary. In that case, the provisions of both would need to be followed, including reporting to the district attorney general and the committing court at six-month intervals.

When the decision is made that the person shall be discharged to Civil MOT, or to 303(b) MOT, the inpatient facility should notify the following of the decision:

- the committing court, if Civil;
- the district attorney general, if 303(b);
- the outpatient MOT Coordinator and/or the qualified mental health professional;
- TDMHDD MOT Coordinator;
- the service recipient; and
- the service recipient's attorney.

### **C. Outpatient Provider Responsibilities**

- Provide information to the inpatient facility staff to assist in treatment and discharge planning; and
- Facilitate a smooth flow back to the community at the time of discharge.



**M** *Mandatory*

**O** *Outpatient*

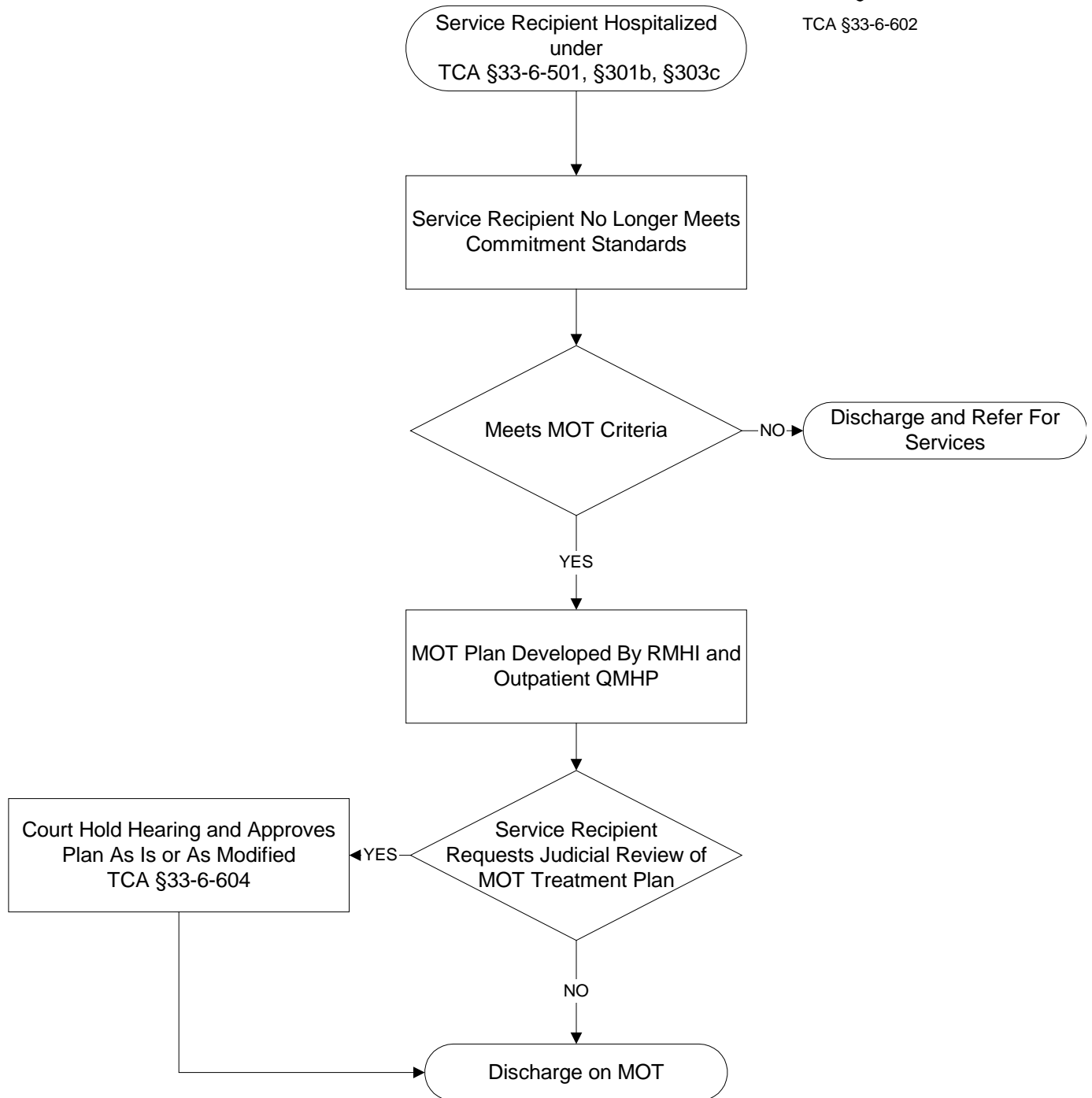
**T** *Treatment*

*Tennessee Department of  
Mental Health & Developmental  
Disabilities*

## **Appendix A**

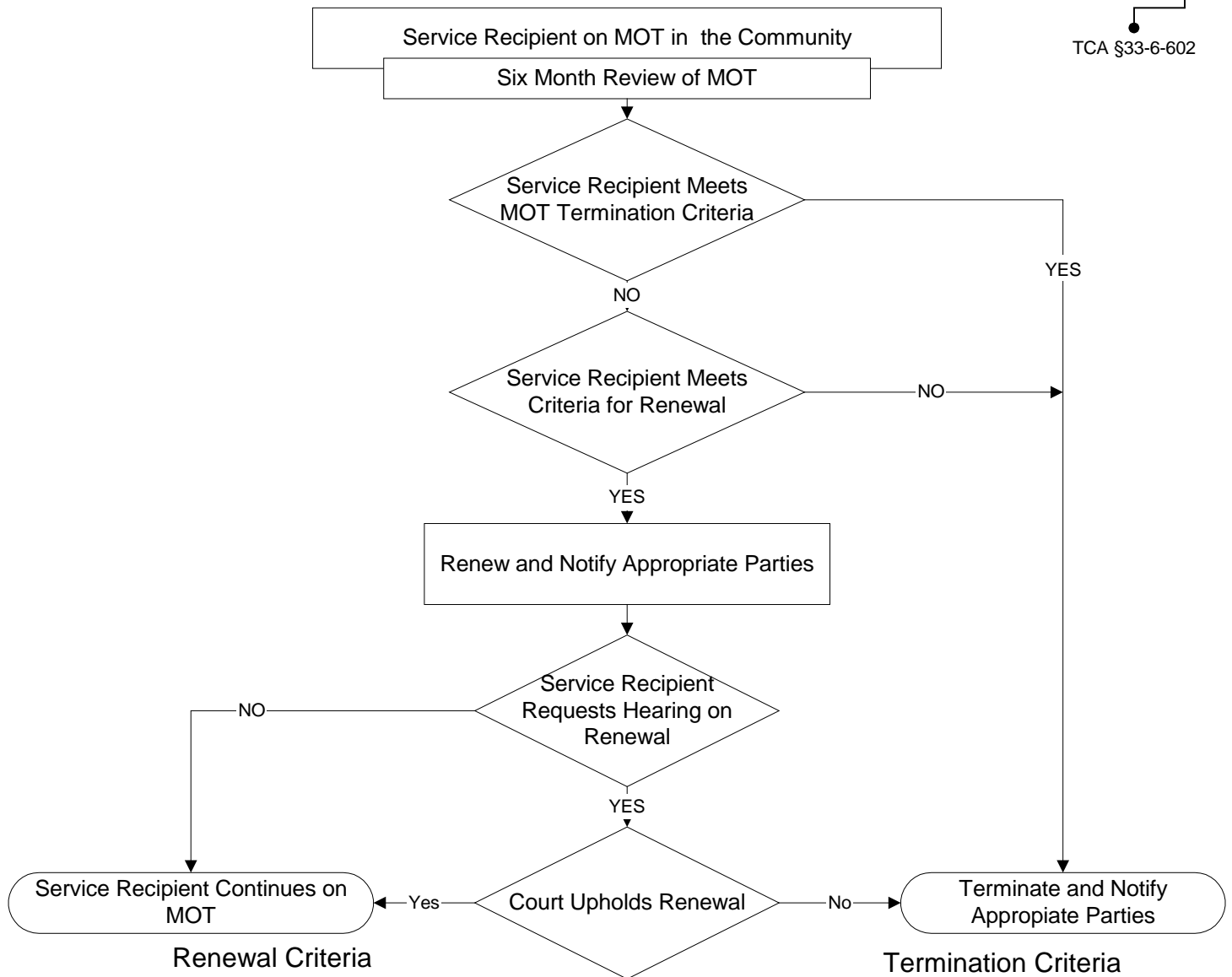


## Mandatory Outpatient Treatment Inpatient Process



Note If the court determined at the time of the commitment that the service recipient should be subject to judicial review for discharge, the hospital must notify the court of the planned discharge. The court may hold a hearing within 21 days pursuant to TCA §33-6-708.

## Mandatory Outpatient Treatment Outpatient Process



### Renewals (T.C.A. Section 33-6-621)

During the sixth month after a service recipient is discharged on MOT (or after the last renewal), the qualified mental health professional must assess whether the service recipient continues to meet the following criteria:

- Has a mental illness or serious emotional disturbance or has a mental illness or serious emotional disturbance in remission, AND
- The person's condition resulting from mental illness or serious emotional disturbance is likely to deteriorate rapidly to the point that the person will pose a likelihood of serious harm under T.C.A. Section 33-6-501 unless treatment is continued, AND
- The person is not likely to participate in outpatient treatment unless legally obligated to do so, AND
- Mandatory Outpatient Treatment is a suitable less drastic alternative to commitment

### Termination (T.C.A. Section 33-6-620)

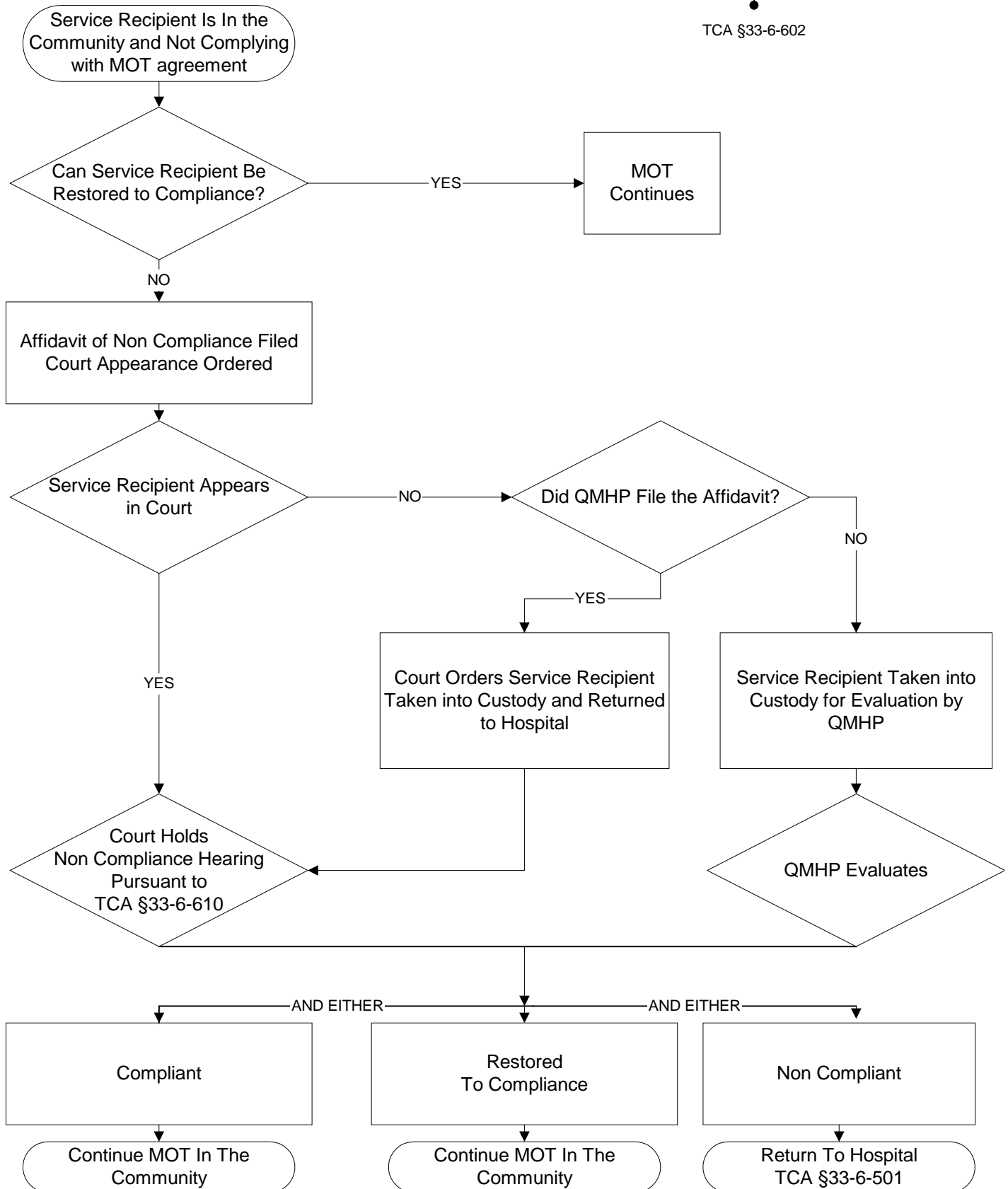
At any time during the course of outpatient treatment, if the QMHP determines that the service recipient:

- is likely to participate in outpatient treatment without being legally obligated to do so
- OR
- no longer needs treatment for mental illness or serious emotional disturbance

**Note:** MOT can be terminated by the QMHP at any time service recipient meets termination criteria and the proper notifications are made.

## Mandatory Outpatient Treatment Civil Non Compliance

TCA §33-6-602



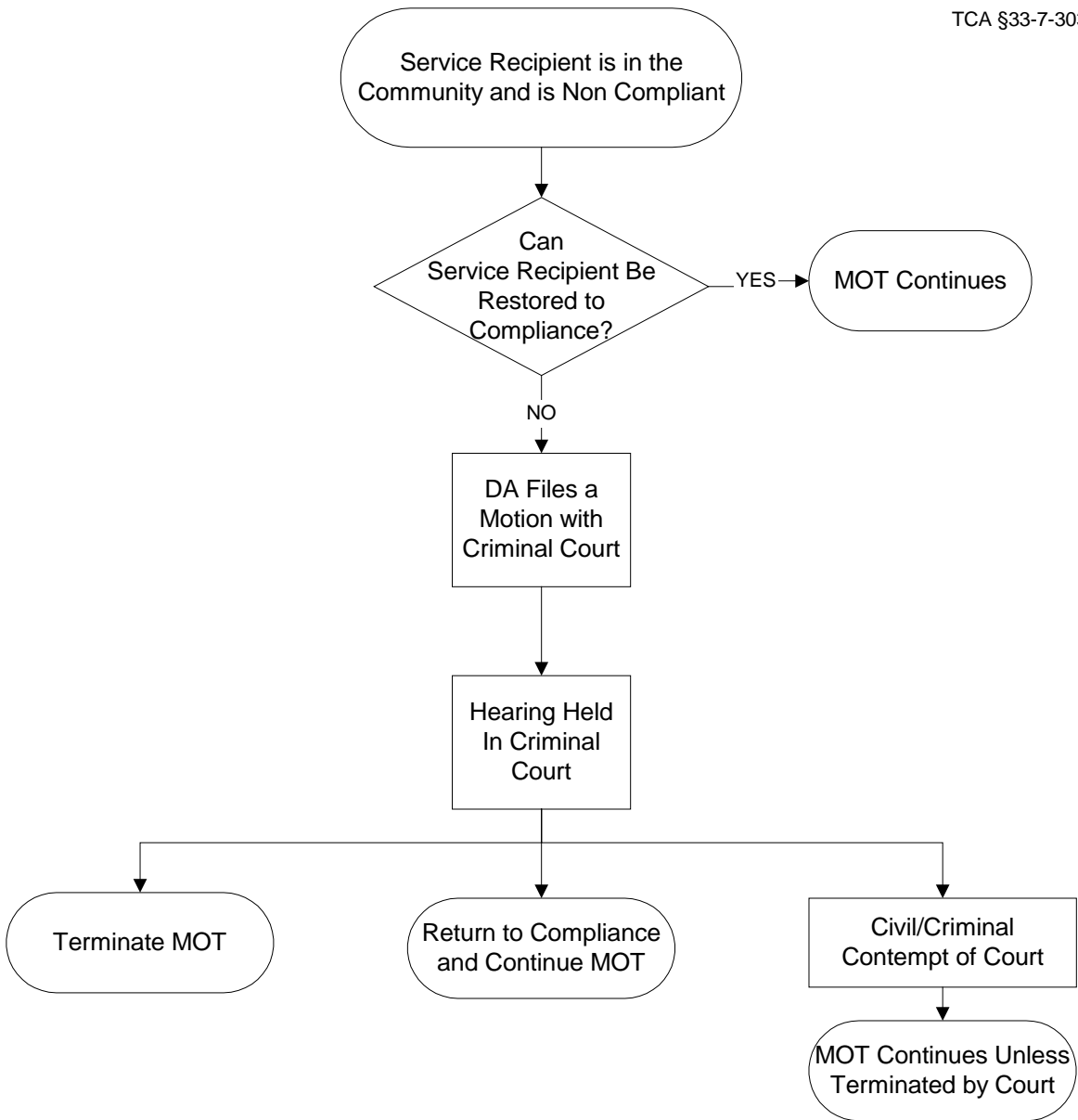
MOT Suspended While Service Recipient is Hospitalized and Will Resume When Discharged Unless Terminated

If a Service Recipient is Returned to the Hospital Prior to a Court Hearing, a Hearing Pursuant to TCA §33-6-610 will be held.



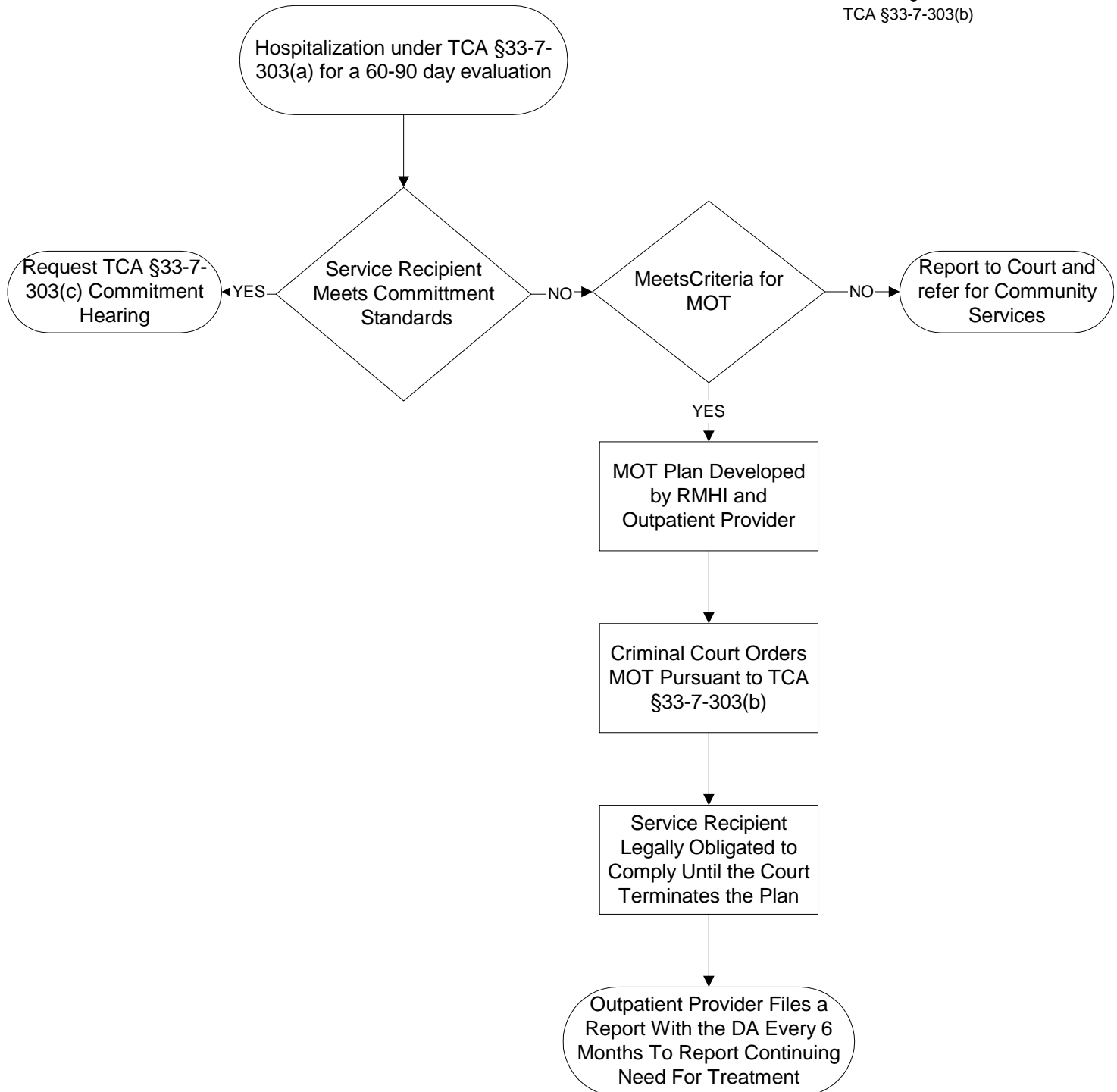
## Mandatory Outpatient Treatment NGRI Non Compliant

TCA §33-7-303(b)



**Mandatory Outpatient Treatment**

TCA §33-7-303(b)



Note TCA §33-7-303(f) allows the cost of treatment incurred as a result of the outpatient treatment and evaluation required under TCA §33-7-303(b) to be taxed as court costs. If funds are not available from other sources, the court should be billed for the cost of treatment.





**M** *Mandatory*

**O** *Outpatient*

**T** *Treatment*

*Tennessee Department of  
Mental Health & Developmental  
Disabilities*

## **Appendix B**



# Civil MOT

## *Extracted from T.C.A. Title 33*

### Part 6

#### Mandatory Outpatient Treatment

33-6-601

IF

- (1) A person with mental illness or serious emotional disturbance was committed involuntarily under chapter 6, part 5, AND
- (2) The hospital staff determines preliminarily:
  - (A) That the person will need to participate in outpatient treatment on discharge and
  - (B) That there is a likelihood that the discharge will be subject to the outpatient treatment obligation of this part, AND
- (3) The person refuses to give consent to disclose information which is legally confidential under this title to the proposed outpatient qualified mental health professional,

THEN

- (4) The hospital and qualified mental health professional may exchange information as necessary to carry out this part.

33-6-602

IF

- (1) On the basis of a review of the person's history before and during hospitalization, the hospital staff concludes that:
  - (A) The person has a mental illness or serious emotional disturbance or has a mental illness or serious emotional disturbance in remission,

- (B) The person's condition resulting from mental illness or serious emotional disturbance is likely to deteriorate rapidly to the point that the person will pose a likelihood of serious harm under § 33-6-501 unless treatment is continued,
- (C) The person is likely to participate in outpatient treatment with a legal obligation to do so,
- (D) The person is not likely to participate in outpatient treatment unless legally obligated to do so, and
- (E) Mandatory outpatient treatment is a suitable less drastic alternative to commitment,

THEN

- (2) The person shall be eligible for discharge subject to the obligation to participate in any medically appropriate outpatient treatment, including but not limited to psychotherapy, medication, or day treatment, under a plan approved by the releasing facility and the outpatient qualified mental health professional.

### 33-6-603 [NEW]

(a) In developing the plan, the releasing facility and the outpatient qualified mental health professional shall consult with the service recipient; the service recipient's parents, legal custodian, or legal guardian if the service recipient is a child; and the service recipient's conservator, if any. Before approving the outpatient treatment plan, the releasing facility and the outpatient qualified mental health professional shall obtain the service recipient's consent to the plan to the extent practical and shall obtain the consent of the service recipient's parents, legal custodian, or legal guardian if the service recipient is a child.

(b) The releasing facility shall provide a clear written statement of what the service recipient shall do to stay in compliance with the plan to the service recipient, the service recipient's parents, legal custodian, or legal guardian if the service recipient is a child; the service recipient's spouse or other adult family member with whom the service recipient would live; and the service recipient's conservator. If the service recipient is a child, the statement shall specify the duties of the service recipient's parents, legal custodian, or legal guardian.

33-6-604

IF

- (1) The person requests judicial review of the treatment plan within 48 hours after being advised of the person's eligibility for release under it,

THEN

- (2) The hospital shall notify the court where the hospital is located which has the same jurisdiction as the committing court that the person is eligible for discharge subject to the obligation to participate in outpatient treatment under the plan agreed to by the releasing facility and the outpatient qualified mental health professional, AND
- (3) The court shall hold a hearing within seven days of receipt of the request to determine whether the treatment plan is medically appropriate and legally permissible, AND
- (4) The court shall either approve the plan or approve the plan as modified by the releasing facility and the outpatient qualified mental health professional to correct deficiencies found by the court.

33-6-605

IF

- (1) (A) The person does not request judicial review of the discharge plan,  
OR  
(B) The court approves an outpatient treatment plan after a hearing under § 33-6-604,

THEN

- (2) IF
  - (A) The person is subject to judicial review under § 33-6-708,  
THEN
    - (B) The person shall be discharged in conformity with § 33-6-708, AND



(3) IF

(A) The person is not subject to judicial review under § 33-6-708,

THEN

(B) The hospital shall discharge the person, AND

(4) The hospital shall notify the committing court that the person has been discharged subject to the obligation to participate in the outpatient treatment.

33-6-606

After discharge the qualified mental health professional may change the treatment plan to meet the person's treatment needs. If the qualified mental health professional changes the treatment plan, the person's obligation to participate in the treatment continues.

33-6-607

If the person is indigent and is not eligible for payment for service under any other governmentally or privately funded system, the department shall provide for the outpatient services. If (1) the person is not indigent or (2) the person is eligible for payment for services under any other governmentally or privately funded system, the person is responsible for payment for the services.

33-6-608

IF

(1) A person who has been discharged subject to the obligation to participate in outpatient treatment is admitted to a hospital or treatment resource before the obligation terminates,

THEN

- (2) The obligation to participate in outpatient treatment is suspended, AND
- (3) The obligation resumes on discharge unless it has been terminated under § 33-6-620, §33-6-622, or § 33-6-623 or the discharge is under § 33-6-706.

33-6-609

IF

- (1) The parent, legal guardian, conservator, spouse, responsible relative, or qualified mental health professional of a service recipient who has been discharged subject to the obligation to participate in outpatient treatment, the person who initiated the commitment proceeding of the service recipient, or the chief officer of the discharging facility files an affidavit with the court that committed the service recipient or any court with jurisdiction under chapter 6, part 5 in the county where the person is being treated or is staying showing that:

- (A) The person is required to be participating in outpatient treatment under § 33-6-602,
- (B) The person is, without good cause, out of compliance with the treatment plan, and
- (C) The qualified mental health professional believes the non-compliance is not likely to be corrected voluntarily,

THEN

- (2) The court shall have jurisdiction to conduct original proceedings to enforce the outpatient treatment obligation, AND

- (3) The court may order the person to appear before the court at a stated time not later than seventy-two hours after the order is issued to determine whether the person is required by this part to be participating in the outpatient treatment and has failed, without good cause, to participate in the treatment as required, AND
- (4) The order and a copy of the affidavit shall be served immediately on the person, the qualified mental health professional, and, if the discharge was under § 33-6-708, the district attorney general for the jurisdiction in which the committing court is located.

33-6-610

(a) If the person appears in person before the court, the court shall hold a hearing to determine whether the person is required to be participating in outpatient treatment and is, without good cause, not complying with the treatment plan.

(b) If the court determines (1) that the person is complying with the treatment plan or (2) that the person is out of compliance for good cause and will be restored to compliance without further action, the court shall release the person.

(c) If the court determines that the person is out of compliance with the treatment plan without good cause and that the person can be put immediately in compliance with the treatment plan and can be expected to stay in compliance without further hospitalization, the court shall make written findings of fact and conclusions of law on the issues, order the person to comply immediately with the treatment plan, and dismiss the proceedings upon a showing that the person is in compliance.

(d) If the court determines that the person is out of compliance with the treatment plan without good cause and that (1) the person cannot be put in compliance with the treatment plan immediately or (2) the person cannot be expected to stay in compliance without further hospitalization, the

court shall make written findings of fact and conclusions of law on the issues and order the person re-committed to the hospital from which the person was released. The sheriff shall immediately transport the person as ordered, and the hospital shall admit the person and give notice of the recommitment to the person's attorney, legal guardian, legal custodian, conservator, and spouse or nearest adult relative, to the qualified mental health professional, to the committing court, and, if the discharge was under § 33-6-708, to the district attorney general in the committing jurisdiction.

33-6-611

IF

- (1) The qualified mental health professional has filed an affidavit showing that:
  - (A) The person with mental illness or serious emotional disturbance is required to be participating in outpatient treatment,
  - (B) The person is, without good cause, not complying with the treatment plan, and
  - (C) The qualified mental health professional believes the non-compliance is not likely to be corrected voluntarily, AND

- (2) The person does not respond to the order to appear,

THEN

- (3) The court shall order the person taken into custody, AND
- (4) The sheriff shall immediately transport the person to the hospital from which the person was discharged, AND

The hospital shall admit the person and give notice of the temporary recommitment and that a hearing under § 33-6-610 will be held to the person's attorney, legal guardian, legal custodian, conservator, and spouse or nearest adult relative, to the qualified mental health professional, to the court which ordered the temporary recommitment of the person, and to the court where the hospital is located which has the same jurisdiction as the recommitting court.

33-6-612

IF

- (1) The qualified mental health professional has not filed an affidavit with the court regarding the person with mental illness or serious emotional disturbance, AND
- (2) The person does not respond to the order to appear,

THEN

- (3) The court shall order the person taken into custody, AND
- (4) The officer who serves the order on the person shall take the person to the qualified mental health professional or the professional's appointed substitute.

33-6-613 [NEW]

A person's qualified mental health professional shall appoint a qualified mental health professional as a substitute in the absence of the appointing professional.

33-6-614

- (a) If the qualified mental health professional determines that:
  - (1) The person with mental illness or serious emotional disturbance is in compliance with the treatment plan or

- (2) The person is out of compliance for good cause, is put in compliance immediately, and can be expected to stay in compliance without further hospitalization,

then the qualified mental health professional shall release the person and notify the court of the basis for the release.

(b) If the qualified mental health professional determines that:

- (1) The person is out of compliance with the treatment plan without good cause,
- (2) The person can be put in compliance with the treatment plan immediately,
- (3) The person complies immediately with the treatment plan, and
- (4) The person can be expected to stay in compliance without further hospitalization,

the qualified mental health professional shall release the person and notify the court of the basis for the release.

33-6-615

IF

(1) The qualified mental health professional determines that:

- (A) the person with mental illness or serious emotional disturbance is out of compliance with the treatment plan without good cause, and
- (B)
  - (i) the person cannot be put immediately in compliance with the treatment plan, or
  - (ii) the person cannot be expected to stay in compliance without

further hospitalization, or

- (iii) the person does not comply immediately with the treatment plan,

THEN

- (2) the qualified mental health professional shall contact the sheriff, AND
- (3) the sheriff shall immediately transport the person to the hospital from which the person was discharged, AND
  - (4) the hospital shall admit the person and give notice of the temporary recommitment and that a hearing under § 33-6-610 will be held to the person, the person's attorney, legal guardian, legal custodian, conservator, and spouse or nearest adult relative, to the qualified mental health professional, to the court which ordered the temporary recommitment of the person, and to the court where the hospital is located that has the same jurisdiction as the recommitting court.

### 33-6-616

The court where the hospital is located is vested with jurisdiction to hold the hearing on a person returned under § 33-6-611. The court shall schedule a hearing to be held under § 33-6-610 within seventy-two (72) hours of receipt of the notice.

### 33-6-617

If the person, upon being readmitted under this part, is eligible for discharge under § 33-6-602, the person shall be discharged under § 33-6-602 notwithstanding § 33-3-501. The hospital shall give notice of the discharge to the courts which had been

notified of the admission, and the judicial proceedings for recommitment shall be dismissed.

33-6-618

In judicial proceedings under this part the person with mental illness or serious emotional disturbance shall have the following rights:

- (1) the burden of proof to establish, as appropriate to the proceedings, that the outpatient treatment plan is proper, that the person is subject to return to the hospital, or that the plan is subject to extension, shall be by clear, unequivocal, and convincing evidence and shall be borne by the party seeking to impose such obligations;
- (2) the person shall be present at the hearing unless the person waives such presence in writing. If the person's attorney shows that the person's physical health would be endangered by being at the hearing, the court may order a continuance until the risk is terminated. If the court determines that the person's conduct at the hearing is so violent or otherwise disruptive that it creates a serious risk of harm to the person or others at the hearing or so disrupts the proceedings that they cannot be conducted in a proper manner, the court may order the person restrained or excluded to the extent necessary to the proper conduct of the proceedings. If the person is not present at or is excluded from the hearing, the court shall make a written fact finding as to why the hearing is held in the person's absence; and



- (3) the person's attorney shall notify the court of the representation immediately after accepting it. If the person does not employ an attorney, the court shall appoint an attorney to represent the person as soon as possible after the case is docketed. An attorney representing the person shall not serve as guardian *ad litem*. If the court determines that the person is not able to understand the nature of the proceedings and cannot communicate with counsel in the conduct of the case, the court may appoint another person to serve as the person's guardian *ad litem*.

33-6-619

If a person is ordered to be re-hospitalized for noncompliance with the treatment plan after a hearing under §§ 33-6-609--33-6-610 or 33-6-611, upon readmission the person shall be held under the authority of the original court order of commitment entered in the proceedings under chapter 6, part 5, and any other pending proceedings under chapter 6, part 4 or 5 shall be dismissed.

33-6-620

IF

- (1) At any time the qualified mental health professional determines that:
- (A) the person with mental illness or serious emotional disturbance is likely to participate in outpatient treatment without being legally obligated to do so, or
  - (B) the person no longer needs treatment for the mental illness or serious emotional disturbance,

THEN

(2) the qualified mental health professional shall terminate the treatment obligation,

AND

(3) the qualified mental health professional shall notify the committing court and the hospital which discharged the person.

33-6-621

IF

(1) During the sixth month after discharge or after the last renewal the qualified mental health professional determines that:

- (A) the person has a mental illness or serious emotional disturbance or has a mental illness or serious emotional disturbance in remission and
- (B) the person's condition resulting from mental illness or serious emotional disturbance is likely to deteriorate rapidly to the point that the person will pose a likelihood of serious harm under § 33-6-501 unless treatment is continued and
- (C) the person is not likely to participate in outpatient treatment unless legally obligated to do so and
- (D) mandatory outpatient treatment is a suitable less drastic alternative to commitment,

THEN

(2) the obligation to participate in outpatient treatment is renewed for six (6) months,

AND

- (3) the qualified mental health professional shall notify the person, the person's attorney, the hospital which discharged the person, and the committing court of the decision and of the basis for it and of the person's right to request a hearing in the committing court.

33-6-622

If the person files a written request for a hearing with the committing court, within thirty (30) days after receipt of notice the committing court shall hold a hearing to review the decision of the qualified mental health professional. If and only if the court determines that:

- (1) the person has a mental illness or serious emotional disturbance or has a mental illness or serious emotional disturbance in remission,
- (2) the person's condition resulting from mental illness or serious emotional disturbance is likely to deteriorate rapidly to the point that the person will pose a likelihood of serious harm under § 33-6-501 unless treatment is continued,
- (3) the person is not likely to participate in outpatient treatment unless legally obligated to do so, and
- (4) mandatory outpatient treatment is a suitable less drastic alternative to commitment,

the obligation to participate in outpatient treatment is renewed for six (6) months.

If after a hearing the court does not determine the obligation to participate in outpatient treatment to be renewed, the person is discharged from the outpatient treatment obligation.

33-6-623

IF

- (1) A person with mental illness or serious emotional disturbance is discharged  
subject to an outpatient treatment obligation under § 33-6-602, AND
- (2) the qualified mental health professional has not terminated the  
outpatient treatment obligation under § 33-6-620.

THEN

- (3) the person's obligation to participate in outpatient treatment terminates six months  
after the discharge or the last renewal of the obligation.



**M** *Mandatory*

**O** *Outpatient*

**T** *Treatment*

*Tennessee Department of  
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Disabilities*

## **Appendix C**



## **Title 33, Chapter 6, Part 5, Tenn. Code Ann.**

### **Substantial Likelihood of Serious Harm**

33-6-501

#### **IF AND ONLY IF**

- (1) (A) A person has threatened or attempted suicide or to inflict serious bodily harm on such person, OR
  - (C) The person has threatened or attempted homicide or other violent behavior, OR
  - (C) The person has placed others in reasonable fear of violent behavior and serious physical harm to them, OR
  - (D) The person is unable to avoid severe impairment or injury from specific risks, AND
- (2) There is a substantial likelihood that such harm will occur unless the person is placed under involuntary treatment,

#### **THEN**

- (3) The person poses a "substantial likelihood of serious harm" for purposes of Title 33.



**M** *Mandatory*

**O** *Outpatient*

**T** *Treatment*

*Tennessee Department of  
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## **Appendix D**





### **33-7-303(b) MOT Extracted from Title 33**

33-7-303 [Similar to current 33-7-303.]

(a) When a person charged with a criminal offense is acquitted of the charge on a verdict of not guilty by reason of insanity at the time of the commission of the offense, the criminal court shall order the person detained for diagnosis and evaluation for a minimum of sixty (60) days and a maximum of ninety (90) days in a hospital or treatment resource.

(b) (1) Following diagnosis and evaluation, if certification is provided that the person is committable under chapter 6, part 5, the district attorney general shall file a complaint in the criminal court for judicial commitment under chapter 6, part 5 and for an order requiring the person to participate in outpatient treatment under this subsection. If certification is not provided that the person is committable under chapter 6, part 5, the district attorney general shall file a complaint in the criminal court for an order requiring the person to participate in outpatient treatment under this subsection.

(2) Notwithstanding any provision to the contrary in this title, the hospital or treatment resource shall not release the person without specific authorization of the court while the complaint is pending until the end of the ninety (90) day maximum detention ordered under subsection (a). The hospital or treatment resource shall release the person at the expiration of the ninety (90) day detention order unless the person has been ordered committed under chapter 6, part 5.

(3) If the court does not commit the person under chapter 6, part 5 and the court determines that the person's condition resulting from mental illness is likely to deteriorate rapidly to the point that the person will pose a substantial likelihood of serious harm under § 33-6-501 unless treatment is continued, the court may order the person to participate in outpatient treatment. Otherwise, the court may not order the person to participate in outpatient treatment. The obligation to participate in outpatient treatment continues until it is terminated by the court under subdivision (b)(5).

(4) If the court orders the person to participate in outpatient treatment and the person does not comply with the treatment plan, the qualified mental health professional shall notify the district attorney general of the noncompliance, and the district attorney general may move the criminal court to cite the person for civil or criminal contempt of court for the non-compliance and may file a complaint in the

criminal court under the provisions of chapter 6, part 5. The qualified mental health professional shall file a report with the district attorney general every six (6) months as to the person's continuing need for treatment.

(5) The court shall terminate the obligation to participate in outpatient treatment when it determines that the person is no longer subject to the obligation under subdivision (b)(3).

(6) The court is vested with jurisdiction to conduct proceedings authorized by this subsection.

(c) (1) Following the hearing conducted by the criminal court under chapter 6, part 5, if the court finds that the person meets the commitment standards under chapter 6, part 5, the court shall enter an order of judicial hospitalization and transfer the person to the custody of the commissioner subject to department rules governing release procedures.

(2) If the court further finds:

(A) That the person is substantially likely to injure such person or others if the person is not treated in a forensic services unit, and

(B) That treatment in such a unit is in the person's best interests,

the person shall be transferred into the custody of the commissioner at a forensic services unit designated by the commissioner subject to the provisions of § 33-7-203.

(d) Either party may appeal a final adjudication under this section to the court of criminal appeals.

(e) The criminal court, in a trial before a jury in which the issue of insanity at the time of the commission of the offense is raised, shall instruct the jury before it begins deliberation as to the provisions of this section.

(f) The cost of treatment incurred as a result of the outpatient treatment and evaluation required in subsection (b) of this section shall be taxed as court costs.



**M** *Mandatory*

**O** *Outpatient*

**T** *Treatment*

*Tennessee Department of  
Mental Health & Developmental  
Disabilities*

## **Appendix E**



# Model Forms For Proceedings Under Tennessee Code Annotated Title 33, Chapter 6, Part 6 and Chapter 7, Part 3.

## Index Of Forms

1. NOTICE TO COURT OF DISCHARGE SUBJECT TO MANDATORY OUTPATIENT TREATMENT UNDER T.C.A. §33-6-605 MHDD-5210 FEB04
2. PETITION FOR JUDICIAL REVIEW OF MANDATORY OUTPATIENT TREATMENT PLAN UNDER T.C.A. §33-6-604 MHDD-5211 FEB04
3. ORDER UNDER T.C.A. §33-6-604 APPROVING A MANDATORY OUTPATIENT TREATMENT PLAN MHDD-5212 FEB04
4. AFFIDAVIT REGARDING SERVICE RECIPIENT'S FAILURE TO COMPLY WITH MANDATORY OUTPATIENT TREATMENT PLAN WITHOUT GOOD CAUSE UNDER T.C.A. §33-6-609 MHDD-5213 FEB04
5. ORDER TO APPEAR BEFORE THE COURT UNDER T.C.A. §33-6-610 MHDD-5214 FEB04
6. ORDER FOLLOWING NON-COMPLIANCE HEARING UNDER T.C.A. §33-6-610 MHDD-5215 FEB04
7. ORDER DIRECTING TEMPORARY RECOMMITMENT OF PERSON WHO FAILED TO APPEAR BEFORE COURT UNDER T.C.A. §33-6-611 MHDD-5216 FEB04
8. NOTICE CONCERNING TEMPORARY RECOMMITMENT OF SERVICE RECIPIENT WHO FAILED TO APPEAR BEFORE COURT UNDER T.C.A. §33-6-611 MHDD-5217 FEB04
9. ORDER DIRECTING SERVICE RECIPIENT TAKEN INTO CUSTODY AND EVALUATED UNDER T.C.A. §33-6-612 MHDD-5218 FEB04
10. FINDINGS BY QUALIFIED MENTAL HEALTH PROFESSIONAL UNDER T.C.A. §§33-6-614 and 615 MHDD-5219 FEB04
11. NOTICE TO COMMITTING COURT AND HOSPITAL THAT MANDATORY OUTPATIENT TREATMENT OBLIGATION IS TERMINATED UNDER T.C.A. §33-6-620 MHDD-5220 FEB04
12. NOTICE THAT MANDATORY OUTPATIENT TREATMENT OBLIGATION IS RENEWED FOR SIX MONTHS UNDER T.C.A. §33-6-621 MHDD-5221 FEB04
13. PETITION FOR JUDICIAL REVIEW OF DECISION TO RENEW MANDATORY OUTPATIENT TREATMENT OBLIGATION UNDER T.C.A. §33-6-622 MHDD-5222 FEB04

14. ORDER FOLLOWING HEARING ON SERVICE RECIPIENT'S OBLIGATION TO PARTICIPATE IN MANDATORY OUTPATIENT TREATMENT UNDER T.C.A. §33-6-622 MHDD-5223 FEB04
15. ORDER UNDER T.C.A. §33-7-303(b) APPROVING A MANDATORY OUTPATIENT TREATMENT PLAN MHDD-5224 FEB04
16. NOTICE OF REVIEW OF MANDATORY OUTPATIENT TREATMENT UNDER T.C.A. §33-7-303(b) MHDD-5225 FEB04
17. AFFIDAVIT REGARDING DEFENDANT'S FAILURE TO COMPLY WITH MANDATORY OUTPATIENT TREATMENT PLAN UNDER T.C.A. §33-7-303(b) MHDD-5226 FEB04
18. REQUEST TO COMMITTING COURT THAT MANDATORY OUTPATIENT TREATMENT OBLIGATION BE TERMINATED MHDD-5227 FEB04





In the Matter of \_\_\_\_\_ )  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)

Docket No. \_\_\_\_\_

---

**NOTICE TO COURT OF DISCHARGE SUBJECT TO MANDATORY OUTPATIENT  
TREATMENT UNDER T.C.A. §33-6-605**

---

1. The above-named service recipient is hospitalized under T.C.A. §33-6-501.
2. This hospital has determined that this service recipient is eligible for discharge.
3. The discharge date is \_\_\_\_\_.

Please mark each statement which is true.

4. \_\_\_\_\_ This service recipient's discharge is subject to the obligation to participate in mandatory outpatient treatment (MOT) under T.C.A. §33-6-602 according to the attached MOT plan and the service recipient is not subject to judicial review.
5. \_\_\_\_\_ This service recipient's discharge is subject to judicial review under T.C.A. §33-6-708. See attached MOT plan.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chief Officer

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Facility

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

IN THE \_\_\_\_\_ OF \_\_\_\_\_ COUNTY, TENNESSEE

In the Matter of \_\_\_\_\_ )  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
Petitioner )

Docket No. \_\_\_\_\_

---

**PETITION FOR JUDICIAL REVIEW OF MANDATORY OUTPATIENT  
TREATMENT PLAN UNDER T.C.A. §33-6-604**

---

Comes now the petitioner, who petitions the court for judicial review of the mandatory outpatient treatment plan agreed to by the releasing facility and the qualified mental health professional. The petitioner requests the court to hold a hearing within seven (7) days of its receipt of this petition to determine whether the mandatory outpatient treatment plan under T.C.A. §33-6-604 is medically appropriate and legally permissible.

\_\_\_\_\_  
Petitioner

Filed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Court Clerk

IN THE \_\_\_\_\_ OF \_\_\_\_\_ COUNTY, TENNESSEE

In the Matter of \_\_\_\_\_ )  
\_\_\_\_\_) )  
\_\_\_\_\_) )  
\_\_\_\_\_) )  
Petitioner \_\_\_\_\_ )

Docket No. \_\_\_\_\_

**ORDER UNDER T.C.A. §33-6-604 APPROVING A  
MANDATORY OUTPATIENT TREATMENT PLAN**

This matter was heard on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, based on a petition filed by the petitioner which requested this court to determine whether the mandatory outpatient treatment plan imposed on the petitioner under T.C.A. §33-6-602 is medically appropriate and legally permissible under this law.

At the hearing, the service recipient was afforded all rights of a service recipient under T.C.A. §33-6-618, and \_\_\_\_\_ testified.

As a result of the hearing the Court concludes: [check one]

- \_\_\_\_\_ 1. The mandatory outpatient treatment plan submitted by the mental health facility is medically appropriate and legally permissible.
- \_\_\_\_\_ 2. The modified mandatory outpatient treatment plan is medically appropriate and legally permissible under T.C.A. §33-6-604.

The court bases its conclusions on the following findings of fact: \_\_\_\_\_

Therefore it is ORDERED:

- (1) the above plan is approved;
- (2) these proceedings are dismissed; and
- (3) the costs of these proceedings and a reasonable attorney's fee shall be reserved for court appointed counsel in this matter and shall be assessed to the State of Tennessee under T.C.A. §33-3-503.

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Attorney for Petitioner

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Attorney for Mental Health Facility

IN THE \_\_\_\_\_ OF \_\_\_\_\_ COUNTY, TENNESSEE

In the Matter of \_\_\_\_\_ )  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
Service Recipient \_\_\_\_\_)

Docket No. \_\_\_\_\_

**AFFIDAVIT REGARDING SERVICE RECIPIENT'S FAILURE TO COMPLY WITH  
MANDATORY OUTPATIENT TREATMENT PLAN WITHOUT GOOD CAUSE  
UNDER T.C.A. §33-6-609**

1. I, \_\_\_\_\_ state that I have personal knowledge of \_\_\_\_\_  
(Name of Affiant) (Name of Service Recipient)

and his or her condition as of this date.

2. I ☐ am ☐ am not the treating qualified mental health professional.

3. I state that:

3.1 the service recipient is required to be participating in mandatory outpatient treatment under T.C.A. §33-6-602, and

3.2 the service recipient is, without good cause, out of compliance with the treatment plan, and

3.3 the service recipient's treating qualified mental health professional, \_\_\_\_\_  
(Name of treating professional)  
\_\_\_\_\_, believes the non-compliance is not likely to be corrected voluntarily.

4. I base my beliefs on the following facts: \_\_\_\_\_

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Date

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_(Date)

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY, TENNESSEE

In the Matter of \_\_\_\_\_ )  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
Service Recipient \_\_\_\_\_)

Docket No. \_\_\_\_\_

**ORDER TO APPEAR BEFORE THE COURT UNDER T.C.A. §33-6-610**

This matter is based on an affidavit of \_\_\_\_\_ under  
T.C.A. §33-6-609 which states that:

- (a) the service recipient is required to be participating in outpatient treatment under  
T.C.A. §33-6-602 and
- (b) the service recipient is, without good cause, out of compliance with the treatment plan and
- (c) the service recipient's qualified mental health professional believes the non-compliance is not  
likely to be corrected voluntarily.

Therefore it is ORDERED:

1. \_\_\_\_\_ shall appear before this court at \_\_\_\_\_ (a.m.)(p.m.)  
(Name of service recipient)  
  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to enable the Court to determine  
whether (a) and (b) above are true, and whether the alleged non-compliance is likely to be  
corrected voluntarily.
2. This order shall be served immediately on the service recipient and \_\_\_\_\_  
(Name of treating professional)  
\_\_\_\_\_, his or her qualified mental health professional.
3. That the costs of these proceedings and a reasonable attorney's fee shall be assessed to the State of

Tennessee in accordance with T.C.A. §33-3-503.

\_\_\_\_\_  
Judge

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

IN THE \_\_\_\_\_ OF \_\_\_\_\_ COUNTY, TENNESSEE

In the Matter of \_\_\_\_\_ )  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
Service Recipient \_\_\_\_\_)

Docket No. \_\_\_\_\_

**ORDER FOLLOWING NON-COMPLIANCE HEARING UNDER  
T.C.A. §33-6-610**

This matter was heard on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, based on affidavit  
of \_\_\_\_\_ under T.C.A. §33-6-609, which alleges  
(Name of Affiant)

- (a) the service recipient is required to be participating in mandatory outpatient treatment under T.C.A. §33-6-602 and
- (b) the service recipient is, without good cause, out of compliance with the treatment plan and
- (c) the treating professional believes the non-compliance is not likely to be corrected voluntarily.

At the hearing, \_\_\_\_\_

testified and the service recipient had all rights afforded a service recipient under T.C.A. §33-6-618.

As a result of the hearing, the Court determines that the service recipient:

- 1. \_\_\_\_\_ Is complying with the treatment plan OR is out of compliance with the treatment plan for good cause and will be restored to compliance without further action.
- 2. \_\_\_\_\_ Is out of compliance with the plan without good cause and can be put immediately in compliance with the treatment plan and can be expected to stay in compliance without further hospitalization.
- 3. \_\_\_\_\_ Is out of compliance with the plan without good cause and can not be put in compliance with the plan immediately or cannot be expected to stay in compliance without further hospitalization.

The Court bases its conclusions on the following findings of fact: (Enter facts as to 2 and 3 above.)

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It is, therefore, ORDERED:

1. \_\_\_\_\_ That the service recipient be released and the treatment plan continues.
2. \_\_\_\_\_ That the service recipient be ordered to comply immediately and dismiss the proceedings upon the showing that the person is in compliance.
3. \_\_\_\_\_ That the service recipient be recommitted to the hospital from which the person was released. The sheriff shall immediately transport the person to the hospital and the hospital shall admit the person and give notice of the recommitment to the person's attorney and others required under T.C.A. §33-6-610(d)(2).
4. That the costs of these proceedings and a reasonable attorney fee be assessed to the State of Tennessee in accordance with T.C.A. §33-3-503.

\_\_\_\_\_  
Judge

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Approved for entry:

\_\_\_\_\_  
Attorney for Service Recipient

\_\_\_\_\_  
Attorney for Mental Health Service Provider

IN THE \_\_\_\_\_ OF \_\_\_\_\_ COUNTY, TENNESSEE

In the Matter of \_\_\_\_\_ )  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
Service Recipient )

Docket No. \_\_\_\_\_

**ORDER DIRECTING TEMPORARY RECOMMITMENT OF PERSON WHO FAILED  
TO APPEAR BEFORE COURT UNDER T.C.A. §33-6-611**

1. This matter is based on an affidavit of \_\_\_\_\_ under T.C.A. §33-6-611 which states that:
  - (a) the service recipient is required to be participating in mandatory outpatient treatment under T.C.A. §33-6-602 and
  - (b) the service recipient is, without good cause, out of compliance with the treatment plan and
  - (c) the service recipient's qualified mental health professional believes the noncompliance is not likely to be corrected voluntarily, and
2. The service recipient failed to appear in this court as ordered.

It is, therefore, ORDERED:

1. The sheriff shall take the service recipient into custody, and
2. The sheriff shall immediately transport the service recipient to the hospital from which the service recipient was discharged, and
3. The hospital shall admit the service recipient and give notice to the service recipient's attorney and others required under T.C.A. §33-6-611(5) of the temporary recommitment and that a hearing under T.C.A. §33-6-610 will be held.
4. That the costs of these proceedings and a reasonable attorney fee be assessed to the State of Tennessee in accordance with T.C.A. §33-3-503.

\_\_\_\_\_  
Judge

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Attorney for Service Recipient

\_\_\_\_\_  
Attorney for Mental Health Service Provider



IN THE \_\_\_\_\_ OF \_\_\_\_\_ COUNTY, TENNESSEE

In the Matter of \_\_\_\_\_ )  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
Service Recipient \_\_\_\_\_)

Docket No. \_\_\_\_\_

**NOTICE CONCERNING TEMPORARY RECOMMITMENT OF SERVICE  
RECIPIENT WHO FAILED TO APPEAR BEFORE COURT UNDER T.C.A. §33-6-611**

TO: SERVICE RECIPIENT \_\_\_\_\_  
SERVICE RECIPIENT'S ATTORNEY \_\_\_\_\_  
SPOUSE OR NEAREST ADULT RELATIVE \_\_\_\_\_  
TREATING PROFESSIONAL \_\_\_\_\_  
COURT WHICH ORDERED RECOMMITMENT \_\_\_\_\_  
COURT WHERE MENTAL HEALTH FACILITY LOCATED \_\_\_\_\_

FROM: MENTAL HEALTH FACILITY \_\_\_\_\_

In accordance with the attached order, \_\_\_\_\_  
(Name of service recipient)

has been recommitted on a temporary basis to \_\_\_\_\_ mental  
health facility on \_\_\_\_\_ (date) \_\_\_\_\_ (time) because he or she was  
found to be out of compliance with his or her mandatory outpatient treatment plan.

A hearing on the non-compliance under T.C.A. §33-6-610 will be scheduled by

\_\_\_\_\_  
(court where the facility is located)

The court shall schedule a hearing under T.C.A. §33-6-616 to be held within five (5) business days of receipt of this notice.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chief Officer

\_\_\_\_\_  
Mental Health Facility

IN THE \_\_\_\_\_ OF \_\_\_\_\_ COUNTY, TENNESSEE

In the Matter of \_\_\_\_\_ )  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
Service Recipient \_\_\_\_\_)

Docket No. \_\_\_\_\_

**ORDER DIRECTING SERVICE RECIPIENT TAKEN INTO CUSTODY AND  
EVALUATED UNDER T.C.A. §33-6-612**

This matter is based on the affidavit of \_\_\_\_\_ under  
T.C.A. §33-6-609. (Name of affiant)

1. The affidavit was introduced as evidence.
2. The affiant is not the treating qualified mental health professional of the service recipient.
3. The service recipient failed to appear in this court as ordered.

The court makes the following findings of fact: [Enter facts as to 1, 2, and 3, above.]

Therefore it is ORDERED:

1. The sheriff or a law enforcement officer shall serve this order on the service recipient and take him or her into custody.
2. The sheriff or law enforcement officer shall take the service recipient to:

\_\_\_\_\_  
(Name of treating qualified mental health professional or professional's substitute)

or, if unavailable, to: \_\_\_\_\_  
(Name of community mental health center)

to determine whether the service recipient is in compliance with the mandatory outpatient treatment plan.

3. The sheriff shall transport the service recipient to \_\_\_\_\_  
(Name of Hospital)

if the treating professional under 2 determines:

- (1) The service recipient is out of compliance with the treatment plan without good cause, and
- (2) (a) the service recipient cannot be put immediately in compliance with the mandatory outpatient treatment plan, or
- (b) the service recipient cannot be expected to stay in compliance without further hospitalization, or
- (c) the service recipient does not comply immediately with the mandatory outpatient treatment plan.

This recommitment is temporary pending a hearing disposing of these issues under T.C.A. §33-6-610.

- 4. If the treating professional does not refer the service recipient to the hospital as stated in 3, the sheriff shall release the person from custody.
- 5. The costs of these proceedings and a reasonable attorney's fee shall be assessed to the State of Tennessee in accordance with T.C.A. §33-3-503.

\_\_\_\_\_  
Judge

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Attorney for Service Recipient

\_\_\_\_\_  
Attorney for Service Provider

IN THE \_\_\_\_\_ OF \_\_\_\_\_ COUNTY, TENNESSEE

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In the Matter of \_\_\_\_\_ )  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
Service Recipient \_\_\_\_\_)

Docket No. \_\_\_\_\_

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**FINDINGS BY QUALIFIED MENTAL HEALTH PROFESSIONAL UNDER  
T.C.A. §§33-6-614 and 615**

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1. I am: [check one]

\_\_\_\_\_ 1.1 The qualified mental health professional treating the above-named service recipient.

\_\_\_\_\_ 1.2 The appointed substitute of \_\_\_\_\_, who is  
the qualified mental health professional treating the above-named service recipient.

2. I have examined this service recipient under T.C.A. §33-6-612 to determine whether the service recipient is in compliance with the mandatory outpatient treatment plan under T.C.A. §33-6-602.

3. As a result of the examination, I have determined that the service recipient:

\_\_\_\_\_ 3.1 Is complying with the mandatory outpatient treatment plan OR is out of compliance with the mandatory outpatient treatment plan for good cause and will be restored to compliance without further action.

\_\_\_\_\_ 3.2 Is out of compliance with the mandatory outpatient treatment plan without good cause and can be put immediately in compliance with the mandatory outpatient treatment plan and can be expected to stay in compliance without further hospitalization.

\_\_\_\_\_ 3.3 Is out of compliance with the mandatory outpatient treatment plan without good cause and can not be put in compliance with the mandatory outpatient treatment plan immediately or cannot be expected to stay in compliance without further hospitalization.

4. I base my determination on the following findings: \_\_\_\_\_

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Therefore: [check one of the following]

1. \_\_\_\_\_ I have released the service recipient and the mandatory outpatient treatment plan continues.
2. \_\_\_\_\_ The sheriff shall immediately transport the service recipient to \_\_\_\_\_  
(name of hospital)  
and the hospital shall admit the service recipient and give notice of the recommitment to the person's attorney and others required under T.C.A. §33-6-610(d)(2).

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Qualified Mental Health Professional

\_\_\_\_\_  
Agency

\_\_\_\_\_  
Address

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY, TENNESSEE

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In the Matter of \_\_\_\_\_ )  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
Service Recipient \_\_\_\_\_)

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Docket No. \_\_\_\_\_

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**NOTICE TO COMMITTING COURT AND HOSPITAL THAT MANDATORY  
OUTPATIENT TREATMENT OBLIGATION IS TERMINATED UNDER  
T.C.A. §33-6-620**

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\_\_\_\_\_ was committed under Title 33, Chapter 6, Part 5, Tenn. Code Ann. and  
was discharged subject to the mandatory outpatient treatment law.

1. I am the qualified mental health professional treating the above-named person.
2. I have terminated this service recipient's mandatory outpatient treatment obligation because I have determined:

Please mark the statement which is true.

- \_\_\_\_\_ 2.1 This service recipient is likely to participate in outpatient treatment without being legally obligated to do so.
- \_\_\_\_\_ 2.2 This service recipient no longer needs treatment for mental illness or serious emotional disturbance.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Qualified Mental Health Professional

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Agency

\_\_\_\_\_  
Address

TO:

\_\_\_\_\_  
Name of service recipient under mandatory outpatient treatment obligation

\_\_\_\_\_  
Name of service recipient's attorney

\_\_\_\_\_  
Name of service recipient's former hospital

\_\_\_\_\_  
Name of court which committed service recipient under T.C.A. §33-6-501

---

**NOTICE THAT MANDATORY OUTPATIENT TREATMENT OBLIGATION IS  
RENEWED FOR SIX MONTHS UNDER T.C.A. §33-6-621**

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1. I am the qualified mental health professional treating the above-named service recipient, whose obligation to participate in mandatory outpatient treatment under T.C.A. §33-6-602 expires on (date)\_\_\_\_\_ without renewal under T.C.A. §33-6-621.
2. I have decided to renew the service recipient's obligation to participate in mandatory outpatient treatment for six (6) months based on the following conclusions:
  - 2.1 the service recipient has a mental illness or serious emotional disturbance or has a mental illness or serious emotional in remission, and
  - 2.2 the service recipient's condition resulting from mental illness or serious emotional disturbance is likely to deteriorate rapidly to the point that the service recipient will pose a likelihood of serious harm as defined in T.C.A. §33-6-501 unless treatment is continued, and
  - 2.3 the service recipient is not likely to participate in outpatient treatment unless legally obligated to do so, and
  - 2.4 mandatory outpatient treatment is a suitable less drastic alternative to commitment.
3. I base my conclusions under 2 above on the following facts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
4. The service recipient may request a hearing in the court that committed him or her to the hospital, to review my decision to renew the mandatory outpatient treatment obligation.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Qualified Mental Health Professional

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Agency

\_\_\_\_\_  
Address

IN THE \_\_\_\_\_ OF \_\_\_\_\_ COUNTY, TENNESSEE

In the Matter of \_\_\_\_\_ )  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
Petitioner \_\_\_\_\_)

Docket No. \_\_\_\_\_

**PETITION FOR JUDICIAL REVIEW OF DECISION TO RENEW MANDATORY  
OUTPATIENT TREATMENT OBLIGATION UNDER T.C.A. §33-6-622**

Petitioner requests a hearing within thirty (30) days of the Court's receipt of this petition to review the qualified mental health professional's decision to renew petitioner's mandatory outpatient treatment obligation for six (6) months under T.C.A. §33-6-621.

\_\_\_\_\_  
Petitioner

Filed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Court Clerk



IN THE \_\_\_\_\_ OF \_\_\_\_\_ COUNTY, TENNESSEE

In the Matter of \_\_\_\_\_ )  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
Service Recipient \_\_\_\_\_)

Docket No. \_\_\_\_\_

**ORDER FOLLOWING HEARING ON SERVICE RECIPIENT'S OBLIGATION TO  
PARTICIPATE IN MANDATORY OUTPATIENT TREATMENT UNDER  
T.C.A. §33-6-622**

This matter was heard on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, based on the petition of  
\_\_\_\_\_ who requested judicial review of the  
(Name of Service Recipient)  
treating qualified mental health professional's decision to renew the service recipient's obligation to participate  
in mandatory outpatient treatment under T.C.A. §33-6-621.

At the hearing, \_\_\_\_\_ testified and the  
service recipient was afforded all rights of a service recipient under T.C.A. §33-6-618.

As a result of the hearing and from testimony presented and evidence produced, the Court concludes:  
[Choose A or B]

- A. \_\_\_\_\_ The obligation to participate in mandatory outpatient treatment is renewed. In making this  
determination, the Court has concluded that the following requirements for renewal have been  
satisfied:
1. The service recipient has a mental illness or serious emotional disturbance or has a mental  
illness or serious emotional disturbance in remission,
  2. The service recipient's condition, resulting from mental illness or serious emotional disturbance,  
is likely to deteriorate rapidly to the point that the service recipient will pose a likelihood of  
serious harm as defined in T.C.A. §33-6-501 unless treatment is continued,
  3. The service recipient is not likely to participate in outpatient treatment unless legally obligated  
to do so, and
  4. Mandatory outpatient treatment is a suitable less drastic alternative to commitment.

B. \_\_\_\_\_ An insufficient basis exists to support renewal of service recipient's obligation to participate in mandatory outpatient treatment because the legal requirements for renewal have not been satisfied.

Therefore, it is ORDERED that the obligation of the service recipient to participate in mandatory outpatient treatment:

1. \_\_\_\_\_ is renewed for six months under T.C.A. §33-6-621.
2. \_\_\_\_\_ is terminated.
3. The costs of these proceedings and a reasonable attorney fee be assessed to the State of Tennessee in accordance with T.C.A. §33-3-503.

---

Judge

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Approved for entry:

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Attorney for Service Recipient

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Attorney for Mental Health Service Provider

IN THE \_\_\_\_\_ OF \_\_\_\_\_ COUNTY, TENNESSEE

STATE OF TENNESSEE

vs.

DEFENDANT

)  
)  
)  
)  
)  
)

Docket No. \_\_\_\_\_

**ORDER UNDER T.C.A. §33-7-303(b) APPROVING A  
MANDATORY OUTPATIENT TREATMENT PLAN**

This matter was heard on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, based on the complaint requesting that the defendant be ordered to seek mandatory outpatient treatment under T.C.A. §33-7-303(b) with \_\_\_\_\_(qualified mental health professional).

At the hearing, it appeared to the satisfaction of the Court that the defendant was examined at the \_\_\_\_\_ ( Name of Facility) for 60-90 days for diagnosis and evaluation after defendant was adjudicated not guilty by reason of insanity on the charge(s) of \_\_\_\_\_.

The staff of the facility recommend mandatory outpatient treatment with \_\_\_\_\_(qualified mental health professional).

As a result of the hearing the Court finds:

1. That the defendant is mentally ill, and
2. The defendant is not committable under Title 33, Chapter 6, Part 5, Tenn. Code Ann. and T. C. A. §33-7-303(c), and
3. That the defendant's condition resulting from mental illness is likely to deteriorate rapidly to the point that the defendant will pose a substantial likelihood of serious harm as defined in Title 33, Chapter 6, Part 5, Tenn. Code Ann. unless treatment is continued.

Therefore it is ORDERED:

- (1) That the defendant seek outpatient treatment with \_\_\_\_\_(qualified mental health professional); and
- (2) The court clerk provide a copy of this order to \_\_\_\_\_(qualified mental health professional); and
- (3) That the qualified mental health professional file a report with the District Attorney General every six (6) months as to the defendant's continuing need for treatment; and
- (4) That the cost of treatment be taxed as court costs.

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Defense Attorney

\_\_\_\_\_  
Judge

\_\_\_\_\_  
District Attorney General

TO: \_\_\_\_\_  
District Attorney General

\_\_\_\_\_  
Name of service recipient's attorney

\_\_\_\_\_  
Name of discharging inpatient facility

RE: \_\_\_\_\_  
Name of service recipient

---

**NOTICE OF REVIEW OF MANDATORY OUTPATIENT TREATMENT  
UNDER T.C.A. §33-7-303(b)**

---

1. I am the qualified mental health professional treating the above-named service recipient, who is obligated to participate in mandatory outpatient treatment under T.C.A. §33-7-303(b).

This case is due for review no later than \_\_\_\_\_.

Please mark the statement which is true.

2. \_\_\_\_\_ This service recipient has been compliant with his or her mandatory outpatient treatment obligations under T.C.A. §33-7-303(b).

\_\_\_\_\_ This service recipient has not been compliant with his or her mandatory outpatient treatment obligations under T.C.A. §33-7-303(b).

3. I base my conclusions under 2 above on the following facts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

4. I make the following recommendations: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Qualified Mental Health Professional

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Agency

\_\_\_\_\_  
Address

IN THE \_\_\_\_\_ OF \_\_\_\_\_ COUNTY, TENNESSEE

STATE OF TENNESSEE

vs.

DEFENDANT

Docket No. \_\_\_\_\_

**AFFIDAVIT REGARDING DEFENDANT'S FAILURE TO COMPLY WITH  
MANDATORY OUTPATIENT TREATMENT PLAN UNDER T.C.A. §33-7-303(b)**

1. I, \_\_\_\_\_ state that I have personal knowledge of  
(Name of Qualified Mental Health Professional)  
\_\_\_\_\_ and his or her condition as of this date.  
(Name of Defendant)

2. I state that:

- 2.1 the defendant is required to be participating in mandatory outpatient treatment under  
T.C.A. §33-7-303(b), and
- 2.2 the defendant is out of compliance with the mandatory outpatient treatment plan.

3. I base my beliefs on the following facts (include the potential for voluntary compliance): \_\_\_\_\_

\_\_\_\_\_  
Signature of Qualified Mental Health Professional

\_\_\_\_\_  
Date

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_(Date)

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY, TENNESSEE

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STATE OF TENNESSEE

vs.

---

DEFENDANT

)  
)  
)  
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Docket No. \_\_\_\_\_

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**REQUEST TO COMMITTING COURT THAT MANDATORY OUTPATIENT  
TREATMENT OBLIGATION BE TERMINATED**

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The defendant is obligated to participate in mandatory outpatient treatment under T.C.A. §33-7-303(b).

1. I am the qualified mental health professional treating the above-named defendant.
2. I request that this defendant's mandatory outpatient treatment obligation be terminated because I have determined the defendant's condition, resulting from mental illness, is not likely to deteriorate rapidly to the point that the defendant will pose a substantial likelihood of serious harm under T.C.A. §33-6-501.
3. I base my conclusions on \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

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Date

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Name of Qualified Mental Health Professional

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Telephone Number

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Agency

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Address